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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 : 04-CR-911
 -against- :
 : United States Courthouse
 ALPHONSE T. PERSICO and : Central Islip, New York
 JOHN J. DeROSS, :
 :
 Defendants. : November 29, 2007
-----X 9:30 a.m.

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOANNA SEYBERT
UNITED STATES DISTRICT COURT JUDGE, and a Jury

APPEARANCES:

For the Government:

BENTON J. CAMPBELL
UNITED STATES ATTORNEY
One Pierrepont Plaza
Brooklyn, New York 11201
BY: JOHN BURETTA, ESQ.
JEFFREY GOLDBERG, ESQ.
DEBORAH MAYER, ESQ.

For the Defense:
- For Persico

SARITA KEDIA, ESQ.
JULIE JONES, ESQ.
Five East 22nd Street, Suite 7B
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- For DeRoss

LaRUSSO & CONWAY, ESQS.
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BY: ROBERT P. LaRUSSO, ESQ.

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Proceedings recorded by mechanical stenography
Transcript produced by Computer

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1 THE COURT: Good morning, folks. Please be
2 seated for a moment.

3 The government is requesting reasonable time
4 limits be set for cross-examination. I know that I have
5 the authority and certainly the discretion to do so. I
6 will begin imposing it if this continues.

7 I think there has to be some balance here. You
8 have a lot of material. This is a retrial. You have to
9 focus, both the government and the defense have to focus
10 on presentation.

11 The government insists they have to call
12 Mr. Vitale, that's the choice you have made. I will
13 insist that there be a fair, balanced cross-examination.
14 So focus and prioritize and we should be able to complete
15 this. This is the third or fourth individual who is going
16 to be called to describe the structure of the Mafia.

17 MR. BURETTA: He is being called because he
18 directly spoke to defendant Persico about Billy Cutolo's
19 murder.

20 THE COURT: Perhaps you can limit his
21 examination.

22 MR. BURETTA: That's why we will shorten it. We
23 want to get this done, too.

24 THE COURT: We will call the jury in.

25 We have Mr. Floridia. You have a half hour,

Floridia - Cross/LaRusso

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1 Mr. LaRusso.

2 MS. KEDIA: I will hand up to the Court various
3 materials we expect to use during the cross-examination of
4 Mr. Vitale.

5 THE COURT: It appears we don't have all the
6 jurors, which isn't a surprise considering we haven't
7 started on time the last couple of sessions. We will
8 bring in who we have and when the others come, we will
9 start the proceeding.

10 **GIOVANNI FLORIDIA,**

11 having been previously duly sworn

12 was examined and testified as follows:

13 THE COURT: Good morning, folks. Nice to see
14 you all. Please be seated.

15 We are ready to resume the cross-examination of
16 Mr. Floridia.

17 Mr. Floridia, you are still under oath, sir.

18 **CROSS-EXAMINATION**

19 **BY MR. LaRUSSO:**

20 Q Morning, Mr. Floridia. How are you?

21 A Morning.

22 Q Do you know a person by the name of Blue?

23 A Who?

24 Q Who was your cellmate when you were at the
25 Metropolitan Detention Center?

Florida - Cross/LaRusso

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1 A Yes, this kid, the Philipino kid Blue.

2 Q Victor Infante?

3 A I believe so. Yes.

4 Q The man had a tattoo over most of his upper body?

5 A I don't remember.

6 Q How long was he your cellmate?

7 A Since I got into MDC, until I left.

8 Q That would be May 6th of '04 until September 20th of
9 '04, is that correct?

10 A Correct.

11 Q Would you and he stay up late hours of the night
12 talking?

13 A Yes.

14 Q Do you remember ever telling Mr. Infante that you
15 believed Mr. DeMartino got caught up in an unsanctioned
16 hit?

17 A No.

18 Q Did you ever tell Mr. Infante that the Campanella
19 shooting was a personal thing between Mr. DeMartino and
20 Mr. Campanella?

21 A No.

22 Q Did you ever tell Mr. Infante or Blue that you would
23 do anything to get out from underneath the mess that you
24 were in at this point?

25 A No.

Floridia - Cross/LaRusso

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1 Q Let me ask you: After the funeral meeting with Mr.
2 DeRoss, which occurred before the disappearance of Mr.
3 Cutolo, how often did you meet with Mr. DeRoss?

4 A What time frame are you talking about?

5 Q You said you had a meeting with him at funeral home,
6 is that correct, sometime before Mr. Cutolo disappeared?

7 A Yes.

8 Q You have testified that at some point Mr. DeRoss gets
9 arrested, he is placed on house arrest, correct?

10 A Yes. I believe so. I don't know exactly when.

11 Q That occurred approximately the early part of 2001,
12 is that correct?

13 A I don't know. I don't remember.

14 Q To your best recollection, when did Mr. DeRoss go on
15 house arrest?

16 A I really don't know when he got arrested or when he
17 went on house arrest.

18 Q Well, between the time you saw him at the funeral
19 home and the time you learned he went on house arrest, how
20 often did you meet with Mr. DeRoss?

21 A From the time of the -- I told you, I met him one
22 time and then I seen him at the club.

23 Q How often?

24 A Like I testified before, maybe a couple of times that
25 I remember seeing him there.

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1 Q How many times did you meet and talk with him after
2 the meeting at the funeral home?

3 A After the meeting at the funeral?

4 Q Yes.

5 A None. He didn't want -- he didn't want to talk to
6 me. He made it obvious he didn't want me to talk to him.

7 Q Mr. Floridia, I want to make sure you understood my
8 question.

9 MS. MAYER: Objection.

10 MR. LaRUSSO: Maybe it's on my part.

11 THE COURT: Rephrase the question.

12 Q From the time you met Mr. DeRoss at the funeral home
13 to the time that you learned that he was on house arrest,
14 how many times did you meet or speak with him?

15 A I don't know, because I don't know when he went on
16 house arrest. I just don't know that.

17 Q One time, two times?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 Q Do you have any recollection of any meeting with him
21 after that?

22 MS. MAYER: Objection.

23 THE COURT: Sustained.

24 Q From the time you learned he went on house arrest, be
25 fair to say it had to be in 2001 before the shooting of

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1 Mr. Campanella, is that correct?

2 MS. MAYER: Objection.

3 THE COURT: Overruled.

4 A Well, that's when I learned probably that he was on
5 house arrest because he couldn't communicate with Chickie,
6 so that's why we had the messengers in place, so yes,
7 around that time I learned he was under house arrest.

8 Q Mr. Floridia, before Campanella was shot, you learned
9 Mr. DeRoss was on house arrest?

10 A Before Mr. Campanella was shot?

11 Q Yes.

12 A Yes.

13 Q From the time that you learned that Mr. DeRoss was on
14 house arrest, when was the next time you spoke to him
15 person to person?

16 A I didn't speak to him person to person after that.

17 Q You did, you met him at the Metropolitan Detention
18 Center?

19 A Well, yes, okay, yes, I'm thinking you are saying
20 when I was on the street.

21 Q May 6th of '04, sometime after that, when you get
22 incarcerated after your conviction, is that correct?

23 A Yes.

24 Q You meet Mr. DeRoss at the Metropolitan Detention
25 Center?

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1 A Yes.

2 Q Approximately three and a half years between the time
3 you learned he goes on house arrest to the time you see
4 him at Metropolitan Detention Center, you never met or
5 spoke with him, is that correct?

6 A I spoke to him and met him before then, yeah.

7 Q From the time that you learned he goes on house
8 arrest, that's in 2001 before July 16th of '01, is that
9 correct?

10 A Yes.

11 Q To the time that you get incarcerated, May 6th of
12 '04, did you see or speak to Mr. DeRoss during that
13 period?

14 A No.

15 Q That's approximately three and a half years, is that
16 correct?

17 A Yes.

18 Q You are at the Metropolitan Detention Center, what
19 was your rank in the Colombo crime family?

20 A I was an associate.

21 Q What was Mr. DeRoss?

22 A Underboss.

23 Q By the way, at the time you first meet Mr. DeRoss at
24 the Metropolitan Detention Center, you had botched the
25 Campanella shooting at that point, right?

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1 A Well, we got convicted at trial, yes.

2 Q You botched it, you didn't kill him?

3 A Yes, he lived, thank God.

4 Q At the time that you were speaking with Mr. DeRoss at
5 Metropolitan Detention Center, you were the only Colombo
6 member, associate or member of the hierarchy, correct?

7 A Yes.

8 Q You had a series of conversations over time while you
9 were at the Metropolitan Detention Center with Mr. DeRoss,
10 is that correct?

11 A Yes.

12 Q And that was Colombo to Colombo, correct?

13 A Correct.

14 Q You had private conversations with him, correct, you
15 and he alone, correct?

16 A Yes.

17 Q During the course of those --

18 THE COURT: You are nodding your head. You have
19 to answer verbally.

20 THE WITNESS: I'm saying yes. I'm saying
21 correct.

22 Q During those private conversations is when Mr. DeRoss
23 told you that he was involved in the killing of Mr. Cutolo
24 and the shooting of Mr. Campanella, is that correct?

25 A Yes.

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1 Q Well, did he ask that the radio be turned up during
2 your conversations?

3 A No.

4 Q Did he whisper in your ear about these events?

5 A Well, we are in prison, so there is no radio to turn
6 up. Obviously there is no electronic device.

7 Q No television?

8 A Not in the rooms, no.

9 Q What about in the general area?

10 A We weren't in the general area, we were in his
11 private cell.

12 Q So you went into a private cell to have these private
13 conversations, is that your testimony?

14 A In his cell, yes.

15 Q By the way, it's only your word that these
16 conversations took place, isn't that correct, Mr.
17 Floridia?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 Q Let's talk about Jimmy the General. What's his name?
21 Do you know his full name?

22 A I think his name is Generoso. I really don't
23 remember.

24 Q Generoso Barbieri, is that correct?

25 A Yes; that rings a bell.

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1 Q A Bonanno member?

2 A Yes.

3 Q He cooperated with the government, didn't he?

4 A Yes.

5 Q You told us that you overheard a conversation between
6 Mr. DeRoss and Jimmy the General, is that correct, while
7 you were at the Metropolitan Detention Center?

8 A I don't remember that; no.

9 Q Don't you remember telling us you overheard a comment
10 that Mr. DeRoss is telling Jimmy the General you are a kid
11 of steel? You don't remember that?

12 MS. MAYER: Objection.

13 THE COURT: Sustained.

14 Q Do you remember telling us the other day on direct
15 examination that you were a stand-up guy, remember
16 defining the term, "stand-up guy"?

17 A Yes.

18 Q That's a guy who doesn't rat, correct?

19 A Yes.

20 Q Do you remember telling us during the course of your
21 testimony that you overheard a comment Mr. DeRoss made to
22 Jimmy the General?

23 A No.

24 Q About the kid being a man of steel?

25 A No, I didn't overhear the conversation. Jimmy told

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1 me that that's what Jackie said.

2 Q When did this conversation take place in reference to
3 your time at the MDC; was this early on, middle, late?

4 A I really don't remember.

5 Q But it's your recollection that Jimmy the General
6 tells you that Mr. DeRoss was vouching for you at this
7 point, isn't that correct?

8 MS. MAYER: Objection. Misstates the testimony.

9 THE COURT: Overruled.

10 That was your testimony?

11 A Vouching?

12 Q Vouching for you.

13 A I was part of the family. I was just on a mob hit
14 and I went all the way to trial with them, so define
15 vouching. I'm already in.

16 Q He was vouching for you as a stand-up guy?

17 A I'm with him. He is my underboss.

18 Q Mr. Florida, Jimmy the General is telling you that
19 Jackie was saying that you were a stand-up guy, he is a
20 kid of steel, isn't that what he was telling you?

21 A That's a comment he made, yes.

22 Q He is vouching for you? Mr. DeRoss, you are saying,
23 is vouching for you?

24 MS. MAYER: Objection. Asked and answered.

25 THE COURT: Sustained.

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1 Q Mr. Floridia, did Mr. Barbieri, Jimmy the General,
2 say that comment was made by Mr. DeRoss?

3 A No.

4 Q Did he tell you that there was some concern in the
5 institution for whether or not you were going to be a rat?

6 A I don't know.

7 Q Did you ask Mr. Barbieri: Why would Jackie say that
8 to you?

9 A No.

10 Q Was there a general discussion that Mr. Floridia had
11 just gotten convicted and faced a substantial period of
12 time and he may be a rat?

13 A Not that I know of.

14 Q Didn't occur to you to ask him why that was made?

15 MS. MAYER: Objection. Asked and answered.

16 THE COURT: Sustained.

17 Q Let me ask you: You were a stand-up guy when you
18 first got in there, right?

19 A Yes.

20 Q When did you first consider --

21 MS. MAYER: Objection.

22 Q When did you first consider cooperating with the
23 government?

24 MS. MAYER: Objection.

25 THE COURT: Sustained.

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1 Q Mr. Floridia, when was the first time that you met
2 with the government?

3 A The first time I met with them was September 17th.

4 Q Of 2004?

5 A 2004.

6 Q Would you agree with me that sometime before
7 September 17, 2004 you had decided that you would like to
8 try and explore cooperation with the United States
9 government, is that correct?

10 A Yes. I reached out. I told my lawyer to reach out.

11 MS. MAYER: Objection.

12 THE COURT: Sustained. Don't continue the
13 answer.

14 Q If it can be answered with a "yes," Mr. Floridia,
15 that's all I ask for.

16 MS. MAYER: Objection.

17 THE COURT: Sustained.

18 Q At the time you approached the government on
19 September 17th, you were no longer a stand-up guy, were
20 you?

21 A In my opinion?

22 Q Yeah.

23 A I was just reaching out to see if I could talk to the
24 government.

25 Q You were no longer a stand-up guy?

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1 A Well, at that time, nobody knew I was reaching out,
2 so I didn't know, you know, how this all worked. That's
3 why I had the conversation with my lawyer.

4 Q You were no longer a stand-up guy; yes or no?

5 A Well, nobody knew, so I don't know. You want me to
6 define it to myself?

7 Q You were a rat at this point, Mr. Florida; weren't
8 you?

9 A I didn't even talk to the government so I mean, no, I
10 don't think so.

11 Q Mr. Florida, what's your definition of a stand-up
12 guy?

13 A Not cooperating.

14 Q You were in the process of doing just that on
15 September 17th of 2004, weren't you?

16 A Well, when I went and met with the government and
17 then I sat down and told them, you know, the crimes that I
18 committed, yes, at that point I proffered so, yes.

19 Q That was right from the beginning, September 17th of
20 2004?

21 A Well, I went back to MDC, and then the government
22 picked me up on September 20th and the FBI took me out of
23 the facility.

24 Q Three days --

25 A I was gone immediately. It's not like I went back.

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1 I didn't even want to go back, because as soon as I
2 started talking to the government, yes, I was a rat and it
3 would have got back to them. I was in the unit with them,
4 so now I'm fearing for my life, so, yes, I was a rat as
5 soon as I talked to the government.

6 Q Anything else, Mr. Floridia?

7 A No.

8 Q You began your proffer September 17th, is that
9 correct?

10 A Correct.

11 Q You are taken out of prison on September 20th. Where
12 do you go, someplace in New Jersey?

13 MS. MAYER: Objection.

14 MR. LaRUSSO: I will withdraw it.

15 THE COURT: It's withdrawn.

16 Q You go someplace, it's not an institution, a federal
17 prison or anything like that?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 Q How long do you meet with the government officials
21 after you are taken out of the MDC?

22 A Well, after I'm taken out of MDC, I stopped
23 proffering with the U.S. Attorneys and the FBI agents and
24 I start basically -- they start debriefing me on all the
25 crimes that I committed, with myself and with others and

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1 this happened over, you know, many, many meetings.

2 Q You had a number of proffers, is that correct?

3 A Yes.

4 Q Tell us what a proffer is, as you understood it.

5 A Well, I was getting debriefed basically, I was giving
6 them -- I was telling them all the crimes I ever committed
7 in my life and who I committed them with.

8 Q Isn't it a fact that a proffer agreement, as you
9 understood it, was to give the government information so
10 that they can evaluate it and, quote, to see what the
11 government was going to do with the information?

12 A Yes.

13 Q Do you remember testifying to that in a prior
14 proceeding?

15 MS. MAYER: Objection.

16 THE COURT: It's sustained.

17 Q So your understanding of a proffer is you provide
18 information to the government and they see what they can
19 do with it, is that right?

20 MS. MAYER: Objection. Asked and answered.

21 Q What did you mean when you said what the government
22 can do with it?

23 A Well, at the first meeting --

24 Q I'm talking all the proffers Mr. Floridia, your
25 understanding of a proffer agreement in light of your

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1 testimony, what does it mean to you when you say I provide
2 information to the government to see what the government
3 is going to do with it, what did that mean to you?

4 A That meant I told them what I was involved in and
5 then they took the information and they didn't tell me
6 anything. They said okay, we got your information, then
7 they decide if they are going to use it or not use it.

8 Q For what?

9 MS. MAYER: Objection.

10 THE COURT: Sustained.

11 Q Your understanding, Mr. Floridia, about proffer
12 agreement is that when you provide it, they use it to
13 either arrest or indict individuals, is that correct?

14 MS. MAYER: Objection, Judge.

15 THE COURT: Sustained.

16 Q At the time that you were proffering, Mr. DeMartino
17 had been convicted, is that correct?

18 A Yes.

19 Q Mr. DeRoss had not been charged with these crimes you
20 are testifying to?

21 MS. MAYER: Objection.

22 THE COURT: Overruled. You can answer it.

23 A Which crimes? Can you repeat that?

24 Q The shooting of Mr. Campanella or the disappearance
25 of Mr. Cutoło.

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1 A No.

2 Q Or Michael Spats or Carmine DeRoss, is that correct?

3 MS. MAYER: Objection.

4 THE COURT: Sustained.

5 Q Mr. Florida, during the course of your trial, do you
6 recall what evidence was presented regarding Michael Spats
7 and Carmine DeRoss being messengers, do you remember the
8 evidence that the government presented?

9 A No.

10 Q Would it refresh your recollection if the only
11 evidence they had regarding or --

12 MS. MAYER: Objection.

13 THE COURT: Objection is sustained.

14 Q Mr. Florida, did you learn during your trial that
15 the government was seeking to indict Mr. DeRoss for the
16 disappearance of Mr. Cutolo?

17 MS. MAYER: Objection. Asked and answered
18 yesterday, Judge.

19 THE COURT: One more time, you can answer it.

20 A No.

21 MR. LaRUSSO: May I approach?

22 THE COURT: Yes.

23 MS. MAYER: Judge, may we approach?

24 THE COURT: Come on up.

25 (Continued on the next page.)

Sidebar

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1 (Sidebar.)

2 MR. LaRUSSO: So you know where I'm heading, I'm
3 trying to establish what his knowledge was before he began
4 his proffer session. That's all I'm trying to do. I know
5 the Court told me I'm not supposed to use the summations
6 or openings, but this happened during the redirect
7 examination, Mr. Floridia was in court and he hears this.

8 This, by the way, was so significant it became
9 the subject of a newspaper article, it was a very critical
10 part of the case.

11 MS. MAYER: Yesterday, the Court ruled, I don't
12 have the transcript, my understanding of the court's
13 ruling at sidebar yesterday on the topic of the previous
14 ruling was Mr. LaRusso could ask the question to see if he
15 remembered, because the only relevance of it is if the
16 witness recalls it. Because if he doesn't recall it, it
17 doesn't matter whether or not it was said, because it
18 didn't factor into what he provided to the government.

19 So if his answer is I don't remember hearing it,
20 then he can't argue, refreshing him on it now doesn't
21 help. The question is does he remember. If he doesn't
22 remember, it didn't factor into whether or not he was
23 parroting back what the government said.

24 So the Court ruled yesterday that they couldn't
25 do anything, they would be stuck with his answer. He has

Sidebar

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1 asked the question, the answer is I don't remember that at
2 my trial, and that's the answer. It's unlike refreshing
3 on other things because the relevance of it is not whether
4 or not it happened, it's whether or not he heard it or it
5 affected --

6 MR. LaRUSSO: If he doesn't remember -- Judge,
7 he is lying.

8 THE COURT: Mr. LaRusso, let's not get personal
9 opinions here.

10 MR. LaRUSSO: My personal belief is not
11 relevant. What happened, Judge, at the trial this came
12 out, he was sitting there, I can show him this to ask does
13 this refresh your recollection.

14 THE COURT: Ask him if he recalls hearing this.

15 MS. MAYER: He already asked that question. He
16 is stuck with that answer.

17 The other thing is that the Court was explicitly
18 clear that the two topics he was allowed to go into, the
19 jailhouse statements and cooperation, and now he is trying
20 to read it in because he hasn't gotten it in three times.
21 The Court has to put limitations.

22 THE COURT: Finish your objection.

23 You said the reason why you need it. I made the
24 ruling yesterday. The answer is he doesn't recall.
25 That's the end of it. That's my ruling.

Sidebar

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1 MR. LaRUSSO: I'm asking for an opportunity to
2 refresh his recollection.

3 MS. MAYER: You said yesterday not on this
4 topic. The only relevance is whether or not he heard it.
5 It's not a matter of refreshing. Your argument is he
6 heard it and therefore there is no point in refreshing.
7 They want to know if he knew it. If he didn't know it, he
8 couldn't have tailored his answer.

9 MR. LaRUSSO: If I show him this, maybe he will
10 remember it. That's the purpose of showing.

11 THE COURT: The purpose on this particular issue
12 is to see if he remembers hearing it. If he remembered
13 hearing it, then you can bring out the fact that he
14 altered his testimony as a result of hearing the witness'
15 testimony in -- is it Mr. Campanella?

16 MR. LaRUSSO: Yes, it was.

17 MS. MAYER: He said he didn't. I ask to move
18 on.

19 THE COURT: Please move on. I do not want you
20 to use it.

21 MR. LaRUSSO: For the record, how much more time
22 do I have, because I'm using the half hour to go into some
23 other things because I curtailed my testimony.

24 THE COURT: You have 15 minutes more.

25 (Sidebar concluded.)

Sidebar

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(Continued on the next page.)

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1 (In open court.)

2 THE COURT: The objection is sustained.

3 BY MR. LaRUSSO:

4 Q Mr. Florida, I'm going to show you what has been
5 received, I believe, as 3500 GF 1, your cooperation
6 agreement. I'm going to turn to page 3.

7 Can you make out the portion marked 5B, do you
8 see that?

9 A Yes.

10 Q The defendant agrees to furnish to the office all
11 documents and other material that may be relevant to the
12 investigation.

13 We talked about that yesterday, correct?

14 A Yes.

15 Q And that there are -- turning to the next page at the
16 top, the defendant's possession or control. Second part,
17 and to participate in undercover activities pursuant to
18 the specific instructions of law enforcement agents or
19 this office, do you see that?

20 A Yes.

21 Q Did you participate in any undercover operations?

22 A No.

23 Q Did you wear any tape recordings to record any
24 conversations with anybody?

25 A Never.

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1 Q So it's just your opinion?

2 MS. MAYER: Objection.

3 THE COURT: The objection is sustained.

4 Q I'm going to turn to the same page, a little bit
5 farther down paragraph F. I will read a portion quickly:

6 The defendant agrees, and follow me if I make a
7 mistake, please -- the defendant agrees to cooperate fully
8 with the Internal Revenue Service in the ascertainment
9 computation and payment of his correct federal income tax
10 liability for the years 1996 to and including 2003. To
11 that end, the defendant will file amended tax returns for
12 the years 1996 to and including 2003, one month before his
13 sentence, and consents to the disclosure to the Internal
14 Revenue Service of information relating to his financial
15 affairs that is in the possession of third parties.

16 Did I read that correctly?

17 A Yes.

18 Q What have you done to comply with that term of the
19 agreement?

20 A Well, nothing yet, because we haven't reached that
21 level yet.

22 Q When you say nothing yet, you signed the agreement
23 back in November of 2004, is that correct?

24 A Yes.

25 Q So from November of 2004 to the time you are

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1 testifying, you made absolutely no efforts to comply with
2 this, is that correct?

3 A Well, no, not yet, no.

4 Q Isn't it your belief and hope that you don't have to
5 pay a penny; is that correct, Mr. Floridia?

6 A Well, no, by me cooperating --

7 Q Yes or no?

8 A I have to pay. I owe them money.

9 Q It's your understanding you are going to pay money to
10 them, is that correct?

11 A Yes.

12 Q Approximately how much in your mind do you think you
13 will have to pay?

14 A I don't know, but I will have to give them -- I have
15 to sit down and actually give them estimates on how much
16 money I made.

17 Q Well, what's your best estimate?

18 A I can't give you off of my head, but it's going to be
19 a large amount of money, yes, it's going to be a large
20 amount.

21 Q By the way, does this agreement also include dealing
22 with the New York State tax authorities?

23 MS. MAYER: Objection.

24 THE COURT: Sustained.

25 Q Well, you filed New York State tax returns, didn't

Florida - Cross/LaRusso

2847

1 you?

2 MS. MAYER: Objection.

3 THE COURT: Overruled. Did you file New York
4 State returns?

5 THE WITNESS: I believe so, with my accountant.
6 I don't remember ever doing it personally, no.

7 Q Would it be fair to say, Mr. Florida, if you filed
8 tax returns from '96 to 2003 with the IRS, you filed them
9 with New York State, correct?

10 A I would think so.

11 Q And you lied in those returns, too?

12 A I think I lied on all my taxes.

13 Q So you have a liability to the State of New York and
14 the City of New York, is that correct?

15 A Correct.

16 Q Do you intend to take care of that, too, or is the
17 government covering you for that one?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 Q By the way, the agreement doesn't cover you for tax
21 fraud, does it?

22 A Tax fraud? I don't know.

23 Q Let me ask you this: You assume, your understanding
24 is it does, even if it's not written?

25 MS. MAYER: Objection.

Florida - Cross/LaRusso

2848

1 THE COURT: Overruled. Is that your
2 understanding?

3 THE WITNESS: Well, I think by me telling them
4 that I didn't pay my taxes and it's in my cooperation
5 agreement, I believe that I got coverage for that, because
6 I admitted to them, they never arrested me for, you know,
7 tax evasion, I gave that to them.

8 Q Okay.

9 Did you ever hear of a company called ACI
10 located at 950 Third Avenue, 20th floor, New York, New
11 York.

12 A I'm not familiar with that, no.

13 Q Do you know where that address is in New York?

14 A No, I'm not familiar with that.

15 Q By the way, just time frame, when did you and Nory, I
16 believe the last name is Markey, and Rob Delloso, that
17 chiropractor, the doctor, just time, do you remember
18 exactly when?

19 A I think it could have been in 2001, it was in 2001.

20 Q How long prior to the shooting of Mr. Campanella, to
21 your recollection?

22 A I don't know, but it was before Joe's shooting and
23 after January.

24 Q I'm going to show you what is in evidence as
25 Government Exhibit 92. Do you see this number,

Florida - Cross/LaRusso

2849

1 9177346468?

2 A Yes.

3 Q Next to Vinny number 5?

4 A Yes.

5 Q Who is that?

6 A If I remember correctly, that's Chickie's other
7 phone, his cell phone.

8 Q When you say the other cell phone, is this a cell
9 phone that he had before the one that we have been -- you
10 have been talking about, the Chick 30 phone?

11 A I believe so.

12 Q Well, was this in somebody else's name, other than a
13 family member?

14 A Which one?

15 Q The Vinny 5.

16 A No, I remember the number, so I think that that was
17 Chickie's number.

18 Q My question is: Do you remember whether that was in
19 somebody else's name, other than a family member of
20 Mr. DeMartino?

21 A Oh, no, I don't.

22 Q It was a track phone, a prepaid phone?

23 A I don't know what kind of phone that was.

24 Q Mr. Florida, you testified about comments
25 Mr. DeMartino made, immediately after the shooting of Mr.

Floridia - Cross/LaRusso

2850

1 Campanella, gets on the phone and says: Hey, Mike, we
2 missed. There are more words, but I'm focusing you on
3 just those words.

4 A Yes.

5 Q Did you ever hear during the trial any testimony in
6 regards to that, your trial, your trial, any testimony
7 come out or any comments being made that you heard?

8 MS. MAYER: Objection.

9 Q Regarding just that, that when Mr. DeMartino was
10 making that call, when those calls were made, he was
11 saying to somebody: Tell them we missed? Did you hear
12 that at all during the course of your trial?

13 A No.

14 Q Any recollection of that?

15 A No, I don't remember. No.

16 Q It's fair to say that --

17 MS. MAYER: Objection.

18 THE COURT: Sustained.

19 Q The only person other than Mr. DeMartino that heard
20 those words were you, correct?

21 A I was there. Yeah.

22 Q We know there was nobody else in the car, correct?

23 A Yes.

24 Q And we also know that radio goes up, is it up at the
25 time he was making those comments?

Florida - Cross/LaRusso

2851

1 A No, I don't think so. No.

2 Q To your best recollection, there is no taped
3 conversation?

4 A No.

5 Q On July 16th, the day Mr. Campanella was shot,
6 Mr. DeMartino gets in the car with the 38, remember that?

7 A Yes.

8 Q And he tells you Jackie gave me the gun to shoot
9 Campanella?

10 MS. MAYER: Objection, Judge. Asked and
11 answered.

12 THE COURT: Your objection is sustained.

13 Q By the way, has the government given you any money,
14 either for subsistence or your commissary?

15 A Yes.

16 Q Approximately how much, to your understanding, at
17 this point has the government given to you?

18 A I don't know the exact number.

19 Q Approximately?

20 A Maybe 10,000.

21 Q What is your understanding that money was used for?

22 A That's so I could live in jail.

23 Q One more, if I can, on Government Exhibit 92. Do you
24 see the name Rambo 17?

25 A Yes.

Florida - Cross/LaRusso

2852

1 Q 9173765547, do you know who that is?

2 A I don't remember, no.

3 Q Did you ever hear a person associated with the union
4 by the name of Rambo, I believe his first name might be
5 Ramadan Ubrick?

6 A Could be, yes.

7 Q Who was that?

8 A He used to be, if I remember correctly -- if that's
9 who you are talking about, I think he was a business agent
10 in the local.

11 Q You were in touch with somebody from the local that
12 you were working for in the carpenter's union, is that
13 correct?

14 A He was in my union hall, so he was a delegate of
15 Local 926.

16 MR. LaRUSSO: No further questions.

17 THE COURT: Thank you. Any redirect?

18 MS. MAYER: No, Judge.

19 THE COURT: Therefore, we will take a
20 five-minute break and bring in the next witness.

21 Thank you. I really mean five minutes, short.

22 (The jury leaves the courtroom.)

23 MS. KEDIA: May I place something on the record
24 with respect to Mr. Vitale? It will take one minute.

25 THE COURT: Okay. I will give you one minute.

Florida - Cross/LaRusso

2853

1 MS. KEDIA: I understand that in prior trials
2 there have been various 302s that have been turned over by
3 the government as Brady material with respect to this
4 witness. My understanding is that they are 302s created
5 when the agents had discussions with this witness, and
6 then these 302s have handwriting on them by Joseph
7 Massino, who was the boss of the Bonanno family at the
8 time this witness was the underboss, who then became a
9 cooperating witness, which state apparently on various
10 occasions that the witness was inaccurate or lied or
11 whatever he did in making various statements to the
12 agents.

13 I have had the discussion with Mr. Buretta. He
14 tells me that whatever these 302s are, he doesn't believe
15 that he is required to turn them over in this case, but I
16 wanted to make clear I have made the specific request for
17 these 302s.

18 THE COURT: All right.

19 You have your intervening witness?

20 MR. BURETTA: Yes. He is outside.

21 THE COURT: Bring him in.

22 How long do you think this witness will take?

23 MR. BURETTA: Very brief.

24 (A recess was taken.)

25 (The jury enters the courtroom.)

Walsh - Direct/Goldberg

2854

1 MR. GOLDBERG: The government calls Special
2 Agent Kathleen Walsh.

3 **KATHLEEN WALSH,**

4 having been first duly sworn was
5 examined and testified as follows:

6 THE CLERK: Have a seat. Please state and spell
7 your name for the record.

8 THE WITNESS: Kathleen Walsh, K.A.T.H.L.E.E.N.,
9 W.A.L.S.H.

10 DIRECT EXAMINATION

11 BY MR. GOLDBERG:

12 Q Good morning.

13 A Good morning.

14 Q Where do you work?

15 A I work for the FBI.

16 Q How long have you worked for the FBI?

17 A For 20 years.

18 Q I would like to direct your attention to 1996. Where
19 were you working in 1996?

20 A I was in the New York division.

21 Q In what capacity?

22 A I was a Special Agent assigned to the special
23 operations group as a member of a surveillance team.

24 Q Directing your attention to October 1996 and
25 specifically October 4, 1996, were you working that day?

Walsh - Direct/Goldberg

2855

1 A Yes, I was.

2 Q What were you assigned to do that day?

3 A We were assigned to conduct surveillance of Anthony
4 Graziano.

5 Q Let me direct your attention to about 3:45 p.m. that
6 day, where were you at that time?

7 A We were currently keeping an eye on his residence in
8 Staten Island.

9 Q Do you recall his residence?

10 A Yes, 40 Arbutus Way.

11 Q Around that time, did you see Anthony Graziano?

12 A Yes, we did.

13 Q Did there come a time when he left?

14 A Yes, he left shortly after that.

15 Q Did he leave by foot or by car?

16 A By car, in a black Mercedes.

17 Q What happened with the black Mercedes?

18 A The black Mercedes departed the residence. He was a
19 passenger in the vehicle with two other individuals.

20 Q Prior to the Mercedes departing the residence, was
21 that Mercedes there before or did it just arrive?

22 A It arrived a few minutes prior to that.

23 Q Were you able to see who the two people were in the
24 Mercedes?

25 A Not at the time.

Walsh - Direct/Goldberg

2856

1 Q You were not able to identify them at the time?

2 A No, we weren't.

3 Q Have you since been able to identify any of the
4 individuals who were in the Mercedes besides Anthony
5 Graziano?

6 A Yes, one of them, later identified as William Cutolo.

7 Q Now, when the black Mercedes left the Graziano
8 residence with Anthony Graziano, William Cutolo and a
9 third person you could not identify, did you follow them?

10 A Yes, we did.

11 Q Where did they go?

12 A They went to a parking lot near the Staten Island
13 University Hospital.

14 Q Approximately what time did they arrive?

15 A I believe it was approximately 3:56 p.m.

16 Q What happened when they arrived?

17 A When they got to the parking lot, Mr. Graziano and
18 Mr. Cutolo exited the vehicle and were met with another
19 individual nearby.

20 Q At the time you were observing this, were you able to
21 identify the person that Anthony Graziano and William
22 Cutolo were meeting with?

23 A No, we did not.

24 Q Have you since been able to identify that person?

25 A Yes, we did.

Walsh - Direct/Goldberg

2857

1 Q Who was that person?

2 A John DeRoss.

3 Q Do you see John DeRoss in the courtroom?

4 A Yes, I do.

5 Q Can you tell us what he is wearing?

6 A A gray and black sweater.

7 MR. GOLDBERG: Identifying the defendant John
8 DeRoss.

9 THE COURT: The record will reflect that.

10 Q When Anthony Graziano, William Cutolo and John DeRoss
11 were meeting, what did you observe?

12 A They were meeting for several minutes. At some
13 point, a few minutes later, Mr. Graziano appeared to make
14 some phone calls, and then several minutes after that Mr.
15 DeRoss walked over to a light blue vehicle, retrieved a
16 white envelope from the vehicle and returned back to Mr.
17 Graziano and Mr. Cutolo.

18 Q Did Mr. DeRoss appear to do anything with the
19 envelope?

20 A When he walked back to meet with them, he removed
21 some papers from the envelope, showed the papers to the
22 two of them and they continued their conversation.

23 Q For how long did this meeting take place?

24 A Total, it was almost a half hour.

25 Q During that half hour, did the third person in the

Walsh - Direct/Goldberg

2858

1 Mercedes, the person you were unable to identify, ever get
2 out of the vehicle?

3 A No.

4 Q Then what happened?

5 A When the meeting was over, it was probably about 4:24
6 p.m., Mr. Graziano and Mr. Cutolo reentered the Mercedes
7 and departed the area with the unknown driver, and Mr.
8 DeRoss got into the blue vehicle and departed as well.

9 Q Did you follow either the Mercedes or the blue car
10 that Mr. DeRoss departed in?

11 A We followed the black Mercedes.

12 Q Where did it go?

13 A It went back to Mr. Graziano's residence.

14 Q Did the Mercedes stay there?

15 A No, it left about ten minutes later.

16 Q Were you able to see Mr. Graziano in the car at that
17 point?

18 A No, he wasn't in the car that we could observe. We
19 saw Mr. Cutolo and the unknown driver.

20 Q Did you follow the Mercedes or did you stay at the
21 Graziano residence?

22 A We stayed at the Graziano because we believed Mr.
23 Graziano was still at home.

24 Q Did there come a time later you terminated your
25 surveillance?

Walsh - Direct/Goldberg

2859

1 A Yes, we did.

2 Q Did you take any photos that day?

3 A Yes.

4 MR. GOLDBERG: May I approach, your Honor?

5 THE COURT: Yes.

6 Q I'm showing you what's been marked as Government's
7 Exhibits 9A, 9B which is a blowup of 9A, and 9C. Do you
8 recognize these items?

9 A Yes, I do.

10 Q Are these photos that you took that day?

11 A Yes, they are.

12 Q Photos of the meeting you were describing a moment
13 ago?

14 A Yes.

15 Q Are they fair and accurate depictions of what you
16 saw?

17 A Yes, they are.

18 Q A couple of the items in 9A and 9B have some name
19 labels on them?

20 A Yes.

21 Q Are those fair and accurate attributions?

22 A Yes, they are.

23 MR. GOLDBERG: We offer 9A, 9B and 9C, your
24 Honor.

25 MR. LaRUSSO: No objection, your Honor.

Walsh - Cross/LaRusso

2860

1 THE COURT: Received in evidence.

2 (Government Exhibits 9A, 9B and 9C received in
3 evidence.)

4 Q Let me just show you on the overhead projector
5 Government Exhibit 9A.

6 MR. GOLDBERG: Your Honor, I'm going to pass
7 them out in a moment to the jury.

8 Q One quick question about this picture. Do you see in
9 the lower right-hand corner of 9A what appears to be a
10 girl walking by?

11 A Yes, I do.

12 Q Was she part of that meeting or was she in a
13 different distance?

14 A She was definitely not a part of the meeting. She
15 was several feet away, probably 10, 15 yards away. She
16 was more in the foreground of my photo.

17 MR. GOLDBERG: Your Honor, I would like to pass
18 out 9A and 9C, and I have no further questions.

19 THE COURT: All right.

20 Cross-examination.

21 MR. LaRUSSO: Just a few.

22 CROSS-EXAMINATION

23 BY MR. LaRUSSO:

24 Q Good morning. By the way, you were unable to over
25 hear any of the conversation that was taking place, is

Walsh - Cross/Kedia

2861

1 that correct?

2 A No, I was not.

3 Q Those papers, again, you have never had a chance to
4 view those papers that they were looking at in those
5 photographs?

6 A No.

7 Q During the time that you were conducting the
8 surveillance, did you see Mr. DeRoss or anyone commit any
9 crime?

10 A No.

11 MR. LaRUSSO: No further questions.

12 CROSS-EXAMINATION

13 BY MS. KEDIA:

14 Q Ms. Walsh, did you have an understanding as to who
15 William Cutolo was when you saw him that day?

16 MR. GOLDBERG: Objection.

17 THE COURT: Sustained.

18 Q Mr. DeRoss, did you expect to see him that day that
19 you were conducting the surveillance?

20 A No, I didn't even know who he was at the time.

21 Q What about Mr. Cutolo, did you expect to see him that
22 day?

23 A No.

24 Q Did you also not know who he was at the time?

25 MR. GOLDBERG: Objection.

Walsh - Cross/Kedia

2862

1 THE COURT: Sustained.

2 Q Did you see Mr. Persico anywhere in the vicinity on
3 that day that you conducted the surveillance?

4 A No.

5 Q Do you know where Mr. Persico was on that day?

6 MR. GOLDBERG: Objection.

7 THE COURT: Sustained.

8 MS. KEDIA: I have nothing further.

9 MR. GOLDBERG: Nothing.

10 THE COURT: No redirect. You can step down.

11 We will take our mid-morning break at this
12 point. I will see you hopefully at a quarter of.

13 (The jury leaves the courtroom.)

14 THE COURT: Mr. Buretta, would you be good
15 enough to check and see when the witness will be arriving?
16 I was told 11:15.

17 Have you heard anything as to the witness'
18 arrival?

19 MS. MAYER: No. I know the Marshals were trying
20 to find out about the next witness.

21 THE COURT: Okay.

22 MS. MAYER: He stepped out to try and call
23 again.

24 (A recess was taken.)

25 (The jury enters the courtroom.)

Vitale - Direct/Buretta

2863

1 MR. BURETTA: The government calls Salvatore
2 Vitale.

3 **SALVATORE VITALE,**

4 having been first duly sworn was
5 examined and testified as follows:

6 THE CLERK: State and spell your name for the
7 record.

8 THE WITNESS: Vitale, Salvatore, V-I-T-A-L-E.

9 DIRECT EXAMINATION

10 BY MR. BURETTA:

11 Q Good morning, Mr. Vitale.

12 A Morning.

13 Q Sir, did you participate in Italian organized crime?

14 A I did.

15 Q Which family?

16 A Bonanno family.

17 Q Tell the jury approximately how many years you were a
18 part of the Bonanno organized crime family.

19 A About 30 years.

20 Q What was the highest position, sir, that you held in
21 the Bonanno family?

22 A Official underboss.

23 Q I'm going to put on the screen what's in evidence as
24 Government Exhibit 2-F. Do you recognize that person?

25 A I do.

Vitale - Direct/Buretta

2864

1 Q Who is that?

2 A Wild Bill.

3 Q What family was he in?

4 A Colombos.

5 Q What was the highest position he held in the Colombo
6 crime family?

7 A I believe I met him as a captain.

8 Q Did you ever meet him in person?

9 A Yes, I did.

10 Q Did he have any distinguishing physical
11 characteristics?

12 A I believe he was missing his right index finger.

13 Q How did you know that?

14 A When he shook your hand, you could feel it press into
15 your hand, and when you looked down, you see the finger
16 missing.

17 Q After you knew Wild Bill as a captain, did you know
18 him to have any other position in the Colombo crime
19 family?

20 MS. KEDIA: Objection to the leading, your
21 Honor.

22 THE COURT: Overruled.

23 A I heard he was an underboss.

24 Q At some point you learned Wild Bill was gone?

25 A Sorry?

Vitale - Direct/Buretta

2865

1 Q At some point did you learn Wild Bill was gone?

2 A Yes.

3 Q After you learned Wild Bill was gone, did you meet
4 with anyone in the Colombo crime family?

5 A After I learned he was gone?

6 Q Yes.

7 A Yes.

8 Q Who did you meet with in the Colombo crime family?

9 A Allie Boy Persico.

10 Q Is here today?

11 A Yes.

12 Q Point him out, describe what he is wearing.

13 A The gentleman right here with the glasses, gray hair,
14 gray sweater.

15 MR. BURETTA: Let the record reflect Mr. Vitale
16 identified defendant Persico.

17 THE COURT: Yes.

18 Q When you met Allie Boy, what year was it?

19 A '99.

20 Q Did you learn Allie Boy's rank in 1999?

21 A I did.

22 Q What rank?

23 A Acting captain -- I mean acting boss.

24 Q Did you talk to Allie Boy about Wild Bill being gone?

25 A No.

Vitale - Direct/Buretta

2866

1 Q Did you talk about Wild Bill at all?

2 A He did.

3 Q What did Allie Boy say?

4 A He said that a person can't take what's not his,
5 leading me and Mr. Massino to believe that that's why they
6 killed him.

7 Q When Allie Boy told you he can't take what's not his,
8 who did you understand Allie Boy to be referring to?

9 A Wild Bill.

10 Q Was Wild Bill at the meeting?

11 A No.

12 Q Was he supposed to be?

13 A That would have been protocol.

14 Q When Allie Boy said to you he can't take what's not
15 his, what was Allie Boy's demeanor?

16 A Matter-of-factly.

17 Q Was it your understanding from that comment by Allie
18 Boy that he can't take what's not his?

19 MR. LaRUSSO: Your Honor.

20 MS. KEDIA: Objection. That's not what the
21 witness stated.

22 THE COURT: Don't do that.

23 Q What did Allie Boy say to you?

24 MS. KEDIA: Objection, your Honor. Asked and
25 answered.

Vitale - Direct/Buretta

2867

1 THE COURT: Overruled.

2 Q What did he say to you about Wild Bill?

3 A He said he can't take what's not his.

4 Q Did that have a meaning to you regarding the Colombo
5 organized crime family?

6 A Yes.

7 Q Was there a history behind that that you were aware
8 of?

9 A With our family?

10 Q With the Colombo family.

11 A Yes.

12 Q What was the history?

13 A They were at war with each other for a period of
14 time. Other people tried to take the family or to rob the
15 family and that started a war.

16 Q When Allie Boy said to you "he can't take what's not
17 his," what did you understand "take" to mean?

18 A Take the family.

19 Q Which family?

20 A The Colombo family.

21 Q When Allie Boy said to you --

22 MS. KEDIA: Objection, your Honor. May we
23 approach?

24 THE COURT: Come on up for a moment.

25 (Continued on the next page.)

Sidebar

2868

1 (Sidebar.)

2 THE COURT: Yes.

3 MS. KEDIA: First, the witness first testified
4 that what Mr. Persico said to him is a person can't take
5 what is not his, not "he can't take what is not his,"
6 Mr. Buretta put words in his mouth and then he changed it.
7 Then Mr. Buretta keeps repeating these words that he has
8 now put into the witness' mouth in every question that is
9 completely inappropriate.

10 MR. BURETTA: I'm asking the witness to say what
11 he said. He said what he said. I'm asking him to
12 interpret the words used.

13 MS. KEDIA: He already asked that question over
14 and over again.

15 MR. BURETTA: I have broken down what did "take"
16 mean. I haven't repeated anything at all.

17 THE COURT: You are breaking it down now.

18 MR. BURETTA: I'm almost done with this.

19 THE COURT: I will overrule the objection.
20 Please, there aren't that many words in the phrase.

21 MR. BURETTA: I agree.

22 MS. KEDIA: Thank you.

23 (Sidebar concluded.)

24 (Continued on the next page.)

25

Vitale - Direct/Buretta

2869

1 (In open court.)

2 THE COURT: The objection is overruled.

3 BY MR. BURETTA:

4 Q When Allie Boy said to you "he can't take what's not
5 his," did you believe Wild Bill was alive?

6 A No, I believed Wild Bill was dead.

7 Q Sir, what neighborhood did you grow up in?

8 A Brooklyn.

9 Q What part?

10 A Flatbush part.

11 Q Are you married?

12 A Yes.

13 Q Do you have children?

14 A Yes.

15 Q How far did you go in school?

16 A First year of college.

17 Q Did you serve in the military?

18 A Yes.

19 Q What branch?

20 A Army, paratroopers.

21 Q What years?

22 A '66 to '68.

23 Q How were you discharged from the army?

24 A Honorably.

25 Q After you left the Army, what did you do?

Vitale - Direct/Buretta

2870

1 A Went to work.

2 Q Doing what?

3 A I worked for UPS. I worked for Hammerly Instrument
4 and Tool Company. I was a narcotic correction officer for
5 the State of New York. I worked for UPS. I had my own
6 businesses.

7 Q What kind of businesses?

8 A Catering.

9 Q Who were you involved in catering with?

10 A Joseph Massino.

11 Q Tell the jury who Joseph Massino was to you at the
12 time you got involved in catering.

13 A My brother-in-law.

14 Q At some point did you find out Joe Massino was
15 something more than your brother-in-law?

16 A Yes.

17 Q What was he?

18 A He was an associate of the Bonanno family.

19 Q At some point, did you go "on record" with your
20 brother-in-law Joe Massino?

21 A Yes.

22 Q Approximately when was that?

23 A 1971-'72.

24 Q When you went on record with Joe Massino, did you
25 have a discussion with him about what that meant?

Vitale - Direct/Buretta

2871

1 A Yes.

2 Q What was discussed? Tell the jury.

3 A To be put "on record" means anything you do from this
4 point on you should tell him about, run it by him, make
5 him aware of it.

6 Q What, if any, discussion at that point did you have
7 with Joe Massino about who his boss was?

8 A Told me his boss was Phil Rastelli.

9 Q Did you later learn who Phil Rastelli was?

10 A Yes.

11 Q Who?

12 A The boss of the Bonanno family.

13 Q When you learned Phil Rastelli was the boss of the
14 Bonanno family, what, if any, position did you have in the
15 Bonanno family?

16 A I was an associate.

17 Q Did you commit crimes as an associate?

18 A Yes.

19 Q Describe for the jury what some of those crimes were
20 when you were an associate.

21 A Mostly breaking and entry or moving swag, moving
22 stolen goods.

23 Q Did you commit other crimes as an associate?

24 A Committed murder as an associate.

25 Q Was there any rule at the time you were an associate

Vitale - Direct/Buretta

2872

1 about associates not participating in murder?

2 A No.

3 Q At some point did you become a member of the Bonanno
4 crime family?

5 A Yes.

6 Q Approximately when?

7 A Mid '80s.

8 Q Tell the jury how you were inducted into the Bonanno
9 crime family.

10 A An individual, Mr. Massino, inducted my name. They
11 passed a list around to the other four families. I was
12 approved and they straighten you out.

13 Q Did you have a ceremony?

14 A Yes.

15 Q Describe it.

16 A When you went to the room -- they actually wait in
17 another area. When you come into the room, they ask you
18 if you want to be a member of the organized crime family.
19 You have a right to leave. If you leave, there is no hard
20 feelings. Once you join, you are in it for life. Once
21 you say yes, they proceed with the ceremony.

22 Q When you were inducted into the Bonanno crime family,
23 were you told who the boss was at that point as well?

24 A When I was inducted?

25 Q Yes.

Vitale - Direct/Buretta

2873

1 A Yes.

2 Q Who was it?

3 A Phil Rastelli.

4 Q Did you learn the boss' powers when you were
5 inducted?

6 A Yes.

7 Q What are the boss' powers?

8 A Boss can't do no wrong. It's his family. He will do
9 what he wants.

10 Q Is his power absolute?

11 A Yes.

12 Q Once you were a member, did you commit more crimes?

13 A Yes.

14 Q Did that include murder?

15 A Yes.

16 Q Did you rise through the ranks?

17 A Yes.

18 Q Once you were an underboss of the Bonanno crime
19 family, how many murders did you participate in?

20 A Once I was the underboss?

21 Q Yes.

22 A How many murders did I participate in as an
23 underboss?

24 Q The highest position you held was underboss, correct?

25 A True.

Vitale - Direct/Buretta

2874

1 Q Once you got to the rank of underboss, how many
2 murders had you committed, been involved in?

3 A 11.

4 Q Once you were the underboss, were you familiar with
5 the captains in your family?

6 A Yes.

7 Q Had most of them participated in murder?

8 A Yes.

9 Q Did you know your consigliere?

10 A Yes.

11 Q Had he participated in murder?

12 A Yes.

13 Q Had your boss?

14 A Yes.

15 Q Of the 11 murders you participated in, did you have
16 permission from the boss of your family to commit them?

17 A Yes.

18 Q Did any of those murders that you participated in
19 involve luring the victim to their death?

20 A Excuse me?

21 Q Did any of the murders you participated in involve
22 luring the victim to their death, lying to them about
23 where they were going?

24 A Yes; all 11.

25 Q Sorry?

Vitale - Direct/Buretta

2875

1 A Yes.

2 Q Give the jury an example of a situation where the
3 victim was lied to to get them to go somewhere to die.

4 A There was a situation in May of '81 where three
5 captains were trying to take the family and Mr. Rastelli
6 and Mr. Massino decided to kill the three captains so they
7 fabricated saying there was going to be an administration
8 meeting. When there is an administration meeting, all the
9 captains must attend.

10 When they walked in, they were shot to death,
11 all three of them.

12 Q Were you there?

13 A Yes.

14 Q What was done with the bodies of those three captains
15 once they were lied to about where they were going?

16 A They were wrapped up in a drop cloth and placed in a
17 van and given to the Gambino family.

18 Q What was done with them then?

19 A The Gambino family took possession of the three
20 bodies and buried them in Howard Beach.

21 Q Did you participate in the murder of somebody named
22 Do-Do Pastore?

23 A Yes.

24 Q When was that?

25 A 1975.

Vitale - Direct/Buretta

2876

1 Q Did you take a loan-shark loan from Do-Do Pastore
2 before he was killed?

3 A Yes.

4 Q How much?

5 A 10,000.

6 Q Who asked you to do that?

7 A Mr. Massino.

8 Q Did you ever have to pay that back?

9 A No.

10 Q Why?

11 A Mr. Massino wanted the loan; he kept the money.

12 Q Do you know who Donnie Brasco is?

13 A Yes.

14 Q Who is that? Tell the jury.

15 A An ex-FBI agent that infiltrated the Bonanno family.

16 Q Were people arrested as result of Donnie Brasco's
17 infiltration of your family?

18 A Yes.

19 Q Was there a price paid by people in your family as a
20 result?

21 A Yes.

22 Q Who died?

23 A Sonny Black Napolitano.

24 Q How did he die?

25 A He was shot to death in Staten Island.

Vitale - Direct/Buretta

2877

1 Q How was he lured to his death?

2 A I think Mr. Massino and an individual Stevie Beef,
3 who was the consigliere at the time, wanted him to come to
4 explain how an FBI agent could join his crew knowing that
5 when he entered, he was going to be killed.

6 Q What was done with his body?

7 A He was buried in Staten Island.

8 Q Do you know who Tony Mirra is?

9 A I met Tony Mirra once.

10 Q Was he killed as a result of Donnie Brasco?

11 A Yes.

12 Q Who killed Tony Mirra?

13 A I think it was two associates, Joey D'Amico and
14 Richie Cantarella.

15 Q What, if any, relationship did Joey D'Amico and
16 Richie Cantarella have to Tony Mirra?

17 A I think it was his cousin.

18 Q Why would cousins be used to kill Tony Mirra?

19 A Same principle, to lure him in, false sense of hope.

20 Q Are you familiar with the term "on the lam"?

21 A Yes.

22 Q What does that mean?

23 A "On the lam" means to take flight, to avoid
24 prosecution.

25 Q Did Joe Massino ever go on the lam?

Vitale - Direct/Buretta

2878

1 A Yes.

2 Q How many times?

3 A Twice.

4 Q Did Joe Massino stop participating in the crime
5 family when he went on the lam?

6 A No.

7 Q Did he stop communicating with his wife?

8 A No.

9 Q How did Joe Massino communicate with his wife while
10 he was on the lam?

11 A Mr. Massino being my brother-in-law at the time, we
12 had a pre-arranged agreement that he gave me five phone
13 numbers, he gave me the locations, he would tell me: I
14 will call you Wednesday 9:00 at this number, have your
15 sister with you. So when I would answer the phone, it
16 would be Joe and I would give the phone to her.

17 Q Joe Massino's wife was your sister?

18 A Yes.

19 Q Did Joe Massino have a girlfriend when he was on the
20 lam?

21 A Yes.

22 Q Did he see her while he was on the lam?

23 A Yes.

24 Q Did you know where Massino was when he was on the
25 lam?

Vitale - Direct/Buretta

2879

1 A Yes.

2 Q When you met with Allie Boy and he told you about
3 Wild Bill, did you think Wild Bill was on the lam?

4 A No.

5 Q Before you cooperated with the government, had you
6 ever been arrested by federal agents?

7 A Yes.

8 Q Approximately how many times?

9 A Twice before.

10 Q Were you ever released on bail?

11 A Yes.

12 Q Were there restrictions on you?

13 A Yes.

14 Q Did you stop participating in the Bonanno crime
15 family when you had those restrictions?

16 A No.

17 Q How did you get around them?

18 A What do you mean how did I get around them?

19 Q How did you keep participating in the Mafia when you
20 had bail restrictions?

21 A I would meet people on street corners or in
22 restaurants or -- I would conduct business as usual.

23 Q Did you ever have a bracelet on?

24 A Yes.

25 Q Describe what a bracelet is.

Vitale - Direct/Buretta

2880

1 A A bracelet is like a beeper system that you can only
2 be so far away from a certain box. If you venture away
3 from that box, it would send out a signal that you are out
4 of your premises. But at the time I was allowed out from
5 let's say 7:00 in the morning to 6:00 at night but at
6 night I had to stay home.

7 Q Were you ever in jail before cooperating?

8 A Did I do time?

9 Q Yes.

10 A No.

11 Q Did others in your family do time while you were on
12 the street?

13 A The Bonanno family?

14 Q Yes.

15 A Yes.

16 Q Were you able to communicate with the ones you wanted
17 to communicate with?

18 A All the time.

19 Q How would you do that?

20 A Through a relative. Go visit them yourself. Get on
21 their visiting list. Go see them. Have a goodfella see a
22 captain who was incarcerated, send messages that way.

23 Q Did you use any other kinds of people to send
24 messages?

25 A You could use a guy's wife. You could use my sister.

Vitale - Direct/Buretta

2881

1 Q Did Joe Massino go to jail?

2 A Yes.

3 Q What were the positions he held in the Bonanno crime
4 family when he was in jail?

5 A Underboss. Then at the latter part of his sentence
6 -- at the latter part of his term he became official boss.

7 Q So the record is clear, Joe Massino became boss while
8 he was in jail?

9 A True.

10 Q When he was in jail, was he able to participate in
11 running the family as boss?

12 A Yes.

13 Q You spoke about burying bodies. Are there other
14 instances you directly participated in where the bodies of
15 the murder victims were buried?

16 A Yes.

17 THE COURT: Mr. Vitale, can you put the screen
18 down? It will make it a little easier to see and hear
19 you.

20 MS. KEDIA: Judge, I don't know if Mr. Buretta
21 is planning on showing anything immediately but there is a
22 lot of the noise coming from the elmo.

23 MR. BURETTA: I will turn it off, Judge.

24 THE COURT: Thank you.

25 Q At some point, Mr. Vitale, did you learn about a

Vitale - Direct/Buretta

2882

1 problem in the Colombo family?

2 A Yes.

3 Q What was the problem?

4 A That Little Vic Orena was looking to take the family
5 from Junior Persico.

6 MR. BURETTA: May I approach the witness, your
7 Honor?

8 THE COURT: Yes.

9 Q I show you Government Exhibits 2A and 2C.

10 2A, do you recognize that picture?

11 A Junior Persico.

12 Q 2C?

13 A That's Little Vic Orena.

14 MR. BURETTA: I offer those.

15 MS. KEDIA: No objection.

16 MR. LaRUSSO: No objection, your Honor.

17 THE COURT: Received in evidence.

18 (Government Exhibits 2A and 2C received in
19 evidence.)

20 Q Mr. Vitale, tell the jury approximately when you
21 learned about this problem -- Mr. Vitale, can you repeat
22 back the names of the two people you were just talking
23 about?

24 A Junior Persico.

25 Q Who was the other person?

Vitale - Direct/Buretta

2883

1 A Little Vic Orena.

2 Q Rick?

3 A V.I.C.K.

4 Q Sir, when did you learn about this dispute in the
5 Colombo family?

6 A Say mid to late '80s, maybe '88, in that time frame.

7 Q Describe to the jury what the dispute was between
8 Junior Persico and Vic Orena.

9 A Little Vic and Benny Aloï asked to see me and Anthony
10 Spero. We met them at the Chelsea House on Cross Bay
11 Boulevard.

12 Q What was your position at the time of this meeting?

13 A Official captain; helping Anthony to run the family.

14 Q Who was Anthony Spero?

15 A Official consigliere of the Bonanno family.

16 Q What happened at this meeting?

17 A At the meeting we were told that Little Vic had
18 called an administration meeting and he told them that
19 Junior Persico doesn't deserve to be boss, he should never
20 be boss, he admitted there was such a thing as organized
21 crime by defending himself in court and that he was going
22 to take the family. As he proceeded to take the family,
23 an individual named Carmine Sessa, who was the consigliere
24 of that family, walked out of the meeting with two or
25 three captains. He says he could take care of his own

Vitale - Direct/Buretta

2884

1 problem but he seen Carmine on his block looking to kill
2 him.

3 Q Who saw Carmine on his block?

4 A Little Vic.

5 Q Saw Carmine who?

6 A Carmine Sessa.

7 Q What happened next?

8 A He says that he just wants to let us know that he is
9 going to take care of his own problem, that he will take
10 care of Carmine and that faction and he just wants us to
11 -- he asks us what our position was and our position was
12 we said we were neutral.

13 Q Who said he was going to take care of his own
14 problem?

15 A Little Vic.

16 Q Is that the man on the screen on the right here
17 (indicating)?

18 A Yes, sir.

19 Q After that point, did the Colombo family break into
20 factions?

21 A Yes.

22 Q How many factions?

23 A Two.

24 Q Which factions?

25 A The Persico faction and the Orena faction.

Vitale - Direct/Buretta

2885

1 Q Did you personally have meetings with members of the
2 Colombo family from each of these factions?

3 A When it first started?

4 Q At any point.

5 A Not really.

6 Q Was this dispute in the Colombo family good for Cosa
7 Nostra?

8 A No.

9 Q Why?

10 A It's bad for business. The blood shed is always bad.

11 Q At some point, did you discuss with the Colombo
12 family them making new members?

13 A Yes.

14 Q Who approached you about that?

15 A Tommy Shots.

16 Q What was your position at the time Tommy Shots spoke
17 to you about making new Colombo members?

18 A Official underboss.

19 MS. KEDIA: Can we get a time name?

20 MR. BURETTA: Next question.

21 THE COURT: Okay.

22 Q When was that approximately?

23 THE COURT: When did it happen?

24 A I would say '98. Approximately, '97, '98.

25 Q I show you Government Exhibit 2I. Do you know who

Vitale - Direct/Buretta

2886

1 that is?

2 A That's Tommy Shots.

3 MR. BURETTA: I offer 2I.

4 MS. KEDIA: No objection.

5 MR. LaRUSSO: No objection.

6 THE COURT: Received in evidence.

7 (Government Exhibit 2I received in evidence.)

8 Q Where were you when you met with Tommy Shots?

9 A The Huntington to hotel on Route 110.

10 Q Where is that?

11 A Melville.

12 Q Who was there?

13 A Just me and him.

14 Q What was discussed?

15 A He said that he just -- he just came up to me, we
16 exchanged each other's greetings. He said: I have
17 something for you, and he handed me a list. I said: I
18 can't take it. I handed it back. He said: We are on our
19 way to see John and to see John's people and they are
20 going to approve it. He said: We will give it to you
21 first. I said: I can't take it, and gave it back to him.

22 Q When you say he said he was on his way to meet John's
23 people, who did you understand that to mean?

24 A The Gambino family.

25 Q Why wouldn't you take the list of proposed new

Vitale - Direct/Buretta

2887

1 members for the Colombo family from Tommy Shots?

2 A Because at the time they were at war and the
3 Commission ruled they couldn't straighten nobody out until
4 they took care of their own affairs.

5 Q How would you get in touch with Tommy Shots?

6 A I would beep him.

7 MR. BURETTA: May I approach the witness?

8 THE COURT: Yes.

9 Q I show you Government Exhibit 125. Do you recognize
10 that?

11 A That's my phone book.

12 MR. BURETTA: I offer 125. The defense has
13 this.

14 THE COURT: Any objection?

15 MS. KEDIA: No objection, your Honor.

16 THE COURT: It's in evidence, unless you have an
17 objection, Mr. LaRusso.

18 MR. LaRUSSO: No objection.

19 (Government Exhibit 125 received in evidence.)

20 Q Sir, did you have contact numbers for Tommy Shots in
21 your phone book?

22 A Yes, I did.

23 Q Did you provide that to the government when you
24 cooperated?

25 A Yes, I did.

Vitale - Direct/Buretta

2888

1 Q I show you alphabetically section T in your phone
2 book. On the left-hand page could you identify for the
3 jury whose name is written at the top?

4 A Tommy Shots.

5 Q Is that the same person you identified in the photo
6 on the screen?

7 A Yes.

8 Q You have got numbers written below that?

9 A Those are all Tommy Shots' numbers.

10 Q What kind of numbers?

11 A Beeper numbers.

12 Q Why did you have beeper numbers for him?

13 A He felt it was safer than to call his home, just to
14 beep him.

15 Q On the right-hand side of the page, whose name
16 appears there?

17 A That's Tommy Shots and a soldier that's with them,
18 Dino. If I couldn't reach Tommy Shots, I could reach
19 Dino.

20 Q When you say Dino was with them as a soldier, with
21 who?

22 A He was with the Colombo family.

23 MS. KEDIA: Can we get a time frame for that?

24 THE COURT: Time frame for when this book was
25 being used?

Vitale - Direct/Buretta

2889

1 MS. KEDIA: Yes, and Dino was a member.

2 A I don't know when I put his number in my book if he
3 was an actual member. He became a member a short time
4 after that. But if I needed Tommy, I could reach Dino.

5 MS. KEDIA: Can we still get a time frame?

6 THE COURT: Do you know approximately when that
7 was, Mr. Vitale?

8 THE WITNESS: Late '90s, your Honor.

9 Q Describe for the jury the reasons that you had paged
10 Tommy Shots.

11 A Why would I page him?

12 Q Yes.

13 A We had numerous beefs with the Colombos that they
14 weren't addressing so Mr. Massino would direct me to call
15 Tommy Shots and see if they could resolve these beefs. At
16 the time Joe Waverly was their consigliere. He asked me
17 if it's okay if you would meet with Tommy Shots because
18 I'm so hot, I can't get out of my neighborhood. I said I
19 got no problem with that. So I would call Tommy and relay
20 messages for Tommy to Joe Waverly.

21 Q During what time period were you contacting Tommy
22 Shots to try and resolve these disputes between the
23 Bonanno and Colombo families?

24 A Same period of time, late '90s.

25 Q What were some of the disputes the Bonannos had with

Vitale - Direct/Buretta

2890

1 the Colombos?

2 A There was an individual Richie Cantarella who was a
3 soldier with us. He owed I think 25,000 for a legitimate
4 job, electrical job, and his people couldn't collect it.
5 So it was done for the Colombos or an associate of the
6 Colombos and there was an individual Tony Graziano that
7 was a captain with us who had also beefs with the
8 Colombos.

9 Q You said Tony Graziano, what is his full first name?

10 A Anthony.

11 Q What was Anthony's Graziano's position in the Bonanno
12 crime family?

13 A Captain.

14 Q You mentioned something called the Commission.
15 Describe for the jury what the Commission is.

16 A The Commission is a ruling body of all organized
17 crime. Every boss has a seat. So if there is five bosses
18 in New York, you have five seats.

19 Q Did you personally attend Commission meetings, sir?

20 A Yes.

21 Q Approximately over what time period did you attend
22 these Commission meetings?

23 A Same period of time, late '90s.

24 Q At the Commission meetings, was there discussion
25 about the problems in the Colombo family?

Vitale - Direct/Buretta

2891

1 A All the time.

2 Q Why?

3 A Because it was bad for business. We wanted it
4 stopped. We wanted it resolved.

5 Q Describe for the jury some examples of the Commission
6 meetings. What was discussed about the Colombo family?

7 A Someone would, say, Barney from the west side would
8 say: These murders gotta stop, they can't go on like
9 this. By us being neutral, I think the Colombos for lack
10 of a better word picked up steam on it. We weren't taking
11 no position at that time. We would try to talk to them
12 and try them to resolve your differences but they
13 wouldn't.

14 Q At some point did the Commission recognize one
15 faction as leading the Colombo family?

16 A Yes.

17 Q Which faction?

18 A Junior Persico's faction.

19 Q When was that?

20 A Say approximately '98.

21 Q How did the Commission go about recognizing the
22 Persico faction as leading the Colombo family?

23 A We all met in a hotel in Manhattan, there was eight
24 of us and we asked to see Vinnie Aloï and Andy Russo, Andy
25 Russo was representing the Persico side. Vinnie Aloï was

Vitale - Direct/Buretta

2892

1 representing the Little Vic Orena side. We told them: It
2 has to stop. You have to resolve your differences. Go
3 into the other room, resolve your differences. When you
4 come out, we want it resolved.

5 When they came out, it wasn't resolved. They
6 were both agitated, both annoyed with each other and both
7 left.

8 At that point we all took a vote and put our
9 weight behind Junior Persico.

10 Q Why?

11 A Because we realized they were on the road to nowhere,
12 they are not going to be able to resolve their differences
13 and we wanted it stopped. We figured if we could give to
14 the Persicos and they would take a firm hand, that it
15 would stop once the other faction seen we weren't neutral
16 no more, maybe they would get the message and come back
17 into the flock.

18 Q Was Junior Persico at these meetings?

19 A No.

20 Q Why not?

21 A He was in prison.

22 Q What was Junior's Persico's position in the Colombo
23 family at the time the Commission decided to recognize the
24 Persicos as ruling the family?

25 A Official boss.

Vitale - Direct/Buretta

2893

1 Q When did you first meet Wild Bill?

2 A Late '80s. That's a guess.

3 Q Do you recall where you met him?

4 A Sheepshead Bay.

5 Q Why?

6 A Me and Anthony Spero were walking and just ran into
7 him.

8 Q Was he with anyone?

9 A Yes.

10 Q Who?

11 A An individual called Joe C, big powerful looking kid,
12 bald head.

13 Q I show you Government Exhibit 2N. Who is that?

14 A That's the individual that was with Wild Bill.

15 Q Do you know this individual's full name?

16 A No.

17 Q The individual on the right is who (indicating)?

18 A That's Joe.

19 Q The individual on the left (indicating)?

20 A That's Wild Bill.

21 Q When you met with them, what happened?

22 A Just exchanged hellos, how you doing, how you been.
23 Nothing -- it was just a chance meeting.

24 Q Sir, directing your attention to 1999, did one of
25 your sons get married that year?

Vitale - Direct/Buretta

2894

1 A Yes.

2 Q When was that?

3 A June 26 of '99.

4 Q As of the time of your son's wedding on June 26,
5 1999, did you know whether or not Wild Bill was still
6 around?

7 A No. I was told he was gone.

8 Q Approximately how long before your son's wedding on
9 June 26, 1999 did you learn Wild Bill was gone?

10 A Prior to my son's wedding?

11 Q Yes. How long before, approximately?

12 A Could have been a matter of weeks.

13 Q How did you learn that Wild Bill was gone?

14 A There was talk on Bath Avenue.

15 Q After you learned Wild Bill was gone, did anyone from
16 the Colombo family come to you as underboss of the
17 Bonannos and ask where Wild Bill was?

18 A No.

19 Q Did anyone from the Colombo family reach out to the
20 Bonanno family and say: We are investigating where Wild
21 Bill is?

22 A No.

23 Q Were you aware if any other underbosses of crime
24 families have been killed in the past?

25 A Yes.

Vitale - Direct/Buretta

2895

1 Q Who?

2 A Frankie DeCicco.

3 Q Was there an investigation of how Frankie DeCicco was
4 killed?

5 A No.

6 Q How did he die?

7 A He was blown up in a car.

8 Q Were you aware of anyone in your family who was
9 killed without permission from the boss?

10 A We had an individual called Sal Horse, Sally the
11 Horse, who was killed at his kitchen table and we never
12 found out where that came from.

13 Q Did you try to find out how Sally the Horse got
14 killed?

15 A Yes, we tried.

16 Q Why did you try to find out who had killed Sally the
17 Horse without the boss' permission?

18 A Because you can't kill an individual without the
19 boss' permission.

20 Q When was the first time you met Allie Boy?

21 A Sometime in the '80s.

22 Q Where?

23 A Club A.

24 Q What's Club A?

25 A It was a big disco at the time in Manhattan.

Vitale - Direct/Buretta

2896

1 Q When was the next time you saw him?

2 A Next time I seen Allie Boy?

3 Q Yes.

4 A In a house in Brooklyn.

5 Q When was that?

6 A I would say latter part of '99.

7 Q Describe for the jury how it is in the latter part of
8 1999 you were coming to meet with Allie Boy.

9 A Tommy Shots beeped me and told me he wanted to meet
10 me. I met him at the Hilton Hotel. At that Hilton he
11 says to me: Allie Boy would like to see you and Joe. I
12 says: Fine. I will get back to you with a time and a
13 date.

14 Q When you say "Joe," who is "Joe"?

15 A Joe Massino, the boss of the Bonanno family.

16 Q At this time, what was your position in the Bonanno
17 family?

18 A Official underboss.

19 Q After Tommy Shots told you Allie Boy wanted to meet
20 with you and Joe, did you talk to Joe?

21 A Yes.

22 Q Did Joe Massino agree to meet with Allie Boy?

23 A Yes.

24 Q What happened next?

25 A I beeped Tommy Shots. I said: You pick a date and

Vitale - Direct/Buretta

2897

1 time and we will meet you.

2 Q What happened next?

3 A Using Thursday as an example, Thursday at 9:00, I
4 don't remember the exact day, we were picked up and
5 brought to meet Allie Boy.

6 Q Who picked you up?

7 A Tommy Shots.

8 Q Who was with you?

9 A Me and Mr. Massino.

10 Q Where were you picked up?

11 A At a restaurant off the Belt Parkway called
12 Albatremento's; it's a pier but you can park your car
13 there. We parked our car and jumped in with Tommy Shots.

14 Q What happened next?

15 A We drove on the Belt Parkway. I think we got off on
16 Fort Hamilton Parkway and onto Third Avenue, made a left)
17 and there was a house in the middle of the block, all
18 attached, all brick with a grading heading toward the Belt
19 Parkway. That's where we met Allie Boy.

20 Q Did you go inside?

21 A Yes.

22 Q Who went inside?

23 A Me and Mr. Massino.

24 Q What floor did you go to when you went inside?

25 A First floor.

Vitale - Direct/Buretta

2898

1 Q Who was inside when you got there?

2 A Allie Boy and Joe Waverly.

3 Q I'm showing you Government Exhibit 2H. Do you
4 recognize that person?

5 A Yes.

6 Q Who is that person?

7 A That's Joe Waverly.

8 MR. BURETTA: I offer 2H.

9 MR. LaRUSSO: No objection.

10 MS. KEDIA: No objection.

11 THE COURT: Received in evidence.

12 (Government Exhibit 2H received in evidence.)

13 Q Describe the inside of that location where you went
14 and saw Allie Boy and Joe Waverly.

15 A When you walk in, I think you walk right into the
16 kitchen. It's a regular kitchen with a table and a chair.
17 In the kitchen, it seemed like there was glass and it
18 would be like an atrium or Florida room beyond that
19 kitchen that you could look into; looked like a Florida
20 room or enclosed room. Behind us I think there was other
21 -- there was other rooms behind us but I wasn't looking, I
22 was looking this way (indicating).

23 Q Who was present in that room in that house that day?

24 A Joe Waverly, Allie Boy and then Tommy Shots came in.

25 Q From the Bonannos?

Vitale - Direct/Buretta

2899

1 A Me and Mr. Massino.

2 Q How did that meeting start?

3 A It started with me being introduced to Allie Boy from
4 Joe Waverly.

5 Q Why did Joe Waverly introduce you to Allie Boy?

6 A I never met Allie Boy as a friend.

7 Q When Joe Waverly introduced you, tell the jury
8 exactly how that happened.

9 A When I entered, he introduced me to Allie Boy. He
10 says: Allie meet Sal. Sal is official underboss of the
11 Bonanno family. He says: Meet Allie. Allie is acting
12 boss for the Colombo family.

13 Q What happened next?

14 A Then I introduced Mr. Massino to Allie Boy and to Joe
15 Waverly as official representante, official boss.

16 Q Is that representante?

17 A Yes.

18 Q Had all the introductions been completed at that
19 point?

20 A Yes.

21 Q Did Allie Boy make any statements once the
22 introductions occurred?

23 A After the introductions, we were about to sit down,
24 Allie Boy pointed to Joe Waverly and he says: And for the
25 time being he is, he is acting underboss.

Vitale - Direct/Buretta

2900

1 Q What was Allie Boy's demeanor when he said for the
2 time being he is acting underboss?

3 A Matter of factly.

4 Q What happened next?

5 A He sat down and that's when he said "you can't take
6 what's not yours."

7 Q Why did you think that referred to Wild Bill?

8 A Put the first statement of the underboss and that
9 statement, that's how we described things; we don't lay it
10 out. Like we would never say "I killed that individual"
11 or "I chopped him up." We would use a gesture or a motion
12 or we knew what he was talking about.

13 Q Is there any doubt in your mind about that?

14 A No.

15 Q What else was discussed at the meeting after Allie
16 Boy made that statement to you about Wild Bill?

17 A I think Allie Boy just wanted to thank Joe, Joe
18 Massino, for being neutral in the whole circumstances. He
19 said it was unfortunate what was going on but he would
20 take care of it. He just wanted to put his family back
21 together.

22 Q Who said he wanted to put his family back together?

23 A Allie Boy.

24 Q Was there any discussion about proposal lists from
25 the Bonannos at that meeting?

Vitale - Direct/Buretta

2901

1 A No; they already straightened out individuals.

2 Q What about proposals of new Bonanno members?

3 A Did we ask -- did we give Allie Boy a list for our
4 new members?

5 Q Or did you talk about them?

6 A I don't remember all the conversations. It was
7 mostly friendly.

8 Q What did you talk about?

9 A How his father was. How Joe was doing. Just
10 chitchat.

11 Q After that meeting with Allie Boy where you talked
12 about Wild Bill, were there any other meetings where Wild
13 Bill came up where you were present?

14 A After that meeting?

15 Q Yes.

16 A Not that I recall.

17 Q Did you know of someone named Jackie DeRoss?

18 A Never met Jackie DeRoss.

19 Q Did you know of him?

20 A I heard of him.

21 Q How did you hear of him?

22 A Heard him through an individual called Anthony
23 Graziano who was a captain with us, with the Bonanno
24 family.

25 Q Did you ever have any disputes involving Jackie

Vitale - Direct/Buretta

2902

1 DeRoss?

2 A Yes.

3 Q Describe that to the jury.

4 A It was an individual that was close to us, he was a
5 goodfella, his name was John. He had a bookmaking
6 business and an individual lost 90,000 to him and he
7 couldn't get paid. So he came -- me and John were very
8 close. He came to me about the situation. I told him:
9 Who is the guy? And he said: He is around Jackie. I
10 said: Jackie who? Jackie DeRoss. I said: I will handle
11 it. I seen Tommy. I told Tommy the story.

12 Tommy advised me to send Pete Rosa who was a
13 friend of ours and John to Jackie's club. They set up the
14 appointment. It was handled. Jackie was very congenial.
15 He said the money will be paid.

16 Q Was that resolved ultimately?

17 A By Tommy Shots, no. But Tommy Shots -- later on it
18 came out it was the kid was with Tommy Shots and he is
19 handling it. And on a 45,000 debt, it went from 90 to 45
20 because John cut it in half. On the 45,000 debt, I think
21 we collected 5,000, if it was 5,000.

22 MS. KEDIA: I don't think we got a time frame on
23 this.

24 Q When was that?

25 A Same period, late '90s.

Vitale - Direct/Buretta

2903

1 Q Did you ever personally meet with Jackie DeRoss?

2 A No, I never met Jackie.

3 Q Now, sir, were you involved in loan-sharking for a
4 period?

5 A Yes.

6 MR. BURETTA: May I approach the witness?

7 THE COURT: Yes.

8 Q I show you Government Exhibit 171.

9 A That's my shy book.

10 Q Your shy book.

11 MR. BURETTA: I offer 171.

12 MS. KEDIA: I have no objection.

13 MR. LaRUSSO: No objection.

14 THE COURT: Received in evidence.

15 (Government Exhibit 171 received in evidence.)

16 Q Tell the jury what a shy book is.

17 A A shy book is just to keep track of what your money
18 -- who you shylocked money to.

19 Q Did you provide this to the government as part of
20 your cooperation?

21 A Yes.

22 Q Just for example, the first page there, there is an
23 individual. What's the name?

24 A Joe Bean.

25 Q There is a number next to it?

Vitale - Direct/Buretta

2904

1 A 10,000.

2 Q What does that number mean?

3 A That number is a number but you make that thousand,
4 that represents 10,000.

5 Q Is that 10,000 in your pocket or 10,000 --

6 A When I gave it to him, it was in my pocket.

7 Q After you took it out of your pocket, who had it?

8 A It was in his pocket.

9 Q Let's take another example. This page that says
10 Bobby, is it?

11 A That's Bubbie.

12 Q Describe to the jury what these numbers mean.

13 A It was the original loan was 50,000, that's why
14 50,000 is on top. After a period of time when he said he
15 couldn't afford to pay no more, he would want a
16 knock-down, a knock-down is everything you have given
17 comes off the top of the principal so he brought me 25 and
18 made it that he owed 25. Then he brought me another 5 and
19 it brought it to 20, and so on and so on.

20 Q The number at the bottom, what's that?

21 A That's 12,000.

22 Q Is that 12,000 you had?

23 A No, it's 12,000 Bubbie had.

24 Q There is another page here. Who is this?

25 A That's Vinny from the Bronx.

Vitale - Direct/Buretta

2905

1 Q What's the total number at the bottom?

2 A At the bottom he owes an outstanding balance of
3 35,000 in the center.

4 Q That's here (indicating)?

5 A Right.

6 Q Sorry, that's the amount he owed?

7 A That's the balance.

8 Q At some point were you arrested?

9 A Yes.

10 Q When?

11 A January of '03.

12 Q At the time you were arrested, what did you decide to
13 do?

14 A Cooperate with the government.

15 Q How long did you take to decide that?

16 A The minute I walked into 26 Federal Plaza.

17 Q Why?

18 A I was tired of Mr. Massino and the Bonanno family.

19 Q Were you told the charges against you?

20 A I never seen the indictment.

21 Q Did the agents tell you what you had been charged
22 with?

23 A I think they said I was being charged with a
24 conspiracy to murder.

25 Q At the time you decided to cooperate, how many

Vitale - Direct/Buretta

2906

1 murders were you charged with?

2 A When I decided to cooperate?

3 Q Yes.

4 A One.

5 Q How many murders did you tell the government about?

6 A 11.

7 Q Why?

8 A Because you have to be truthful when they sit down
9 and they discuss it with you.

10 Q Are you certain you will be better off at sentencing
11 with 11 murders versus one?

12 A There is no guarantee.

13 Q Are you hopeful?

14 A Everyone is hopeful.

15 Q Let's talk about some of the other crimes you have
16 committed.

17 By the way, did you ever shoot anyone personally
18 in those murders?

19 A No.

20 Q Does that make you any less responsible for them?

21 A No.

22 Q Other than loan-sharking and murdering people, did
23 you commit arsons?

24 A Yes.

25 Q Did you engage in fraud?

Vitale - Direct/Buretta

2907

1 A Yes.

2 Q Before you cooperated, did you ever lie to a judge?

3 A Yes.

4 Q About what?

5 A I told them I was innocent. I said I was not guilty.

6 Q Did you ever claim you had an alcohol problem?

7 A Yes.

8 Q Was that in this courthouse in fact?

9 A Excuse me?

10 Q Was that in this courthouse?

11 A Yes.

12 Q Which judge?

13 A Judge Spatt.

14 Q Why did you lie about having an alcohol problem?

15 A Because at the time my attorney told me that if you
16 had an --

17 Q Don't talk about what your attorney says. Tell us
18 why you decided to lie about the alcohol. What did you
19 want?

20 A Because if you have a short amount of time and you
21 have an alcohol problem, they are able to put you into a
22 drug rehab or an alcohol rehab and you can save a year of
23 your sentence.

24 Q Did you get a reduction as a result of that?

25 A No.

Vitale - Direct/Buretta

2908

1 Q Was that before or after you cooperated?

2 A I was cooperating and then I went for sentencing. I
3 started cooperating January 9 but I went for sentencing
4 January 31 of the same year.

5 MR. BURETTA: May I approach the witness?

6 THE COURT: Yes.

7 Q I show you 3500 SV 2A. What is this?

8 A That's my agreement with the government.

9 MR. BURETTA: I offer it, your Honor.

10 MS. KEDIA: No objection.

11 MR. LaRUSSO: No objection, your Honor.

12 THE COURT: Received in evidence.

13 (Government Exhibit 3500 SV 2A received in
14 evidence.)

15 Q Sir, did the government promise you in this agreement
16 that you would get a lower sentence?

17 A No.

18 Q Did they promise you that they would tell the judge
19 what sentence to impose?

20 A No.

21 Q What do you get out of this?

22 A 5K1 letter.

23 Q What does that mean?

24 A A 5K1 letter is a two-part letter. The first part of
25 the letter explains every crime you ever committed. The

Vitale - Direct/Buretta

2909

1 seconds part explains to the judge your cooperation with
2 the government.

3 Q Are you hoping the government will write you that
4 letter?

5 A Am I hoping the government will write that letter?

6 Q Yes.

7 A Yes.

8 Q Are you making anything up in order to get it?

9 A No.

10 Q What would happen to you if you made something up?

11 A That agreement will be null and void.

12 Q What sentence would you get?

13 A Life; no parole.

14 Q Did you face the death penalty when you were
15 arrested?

16 A Yes.

17 Q What would happen if you lied?

18 A I could face the death penalty again.

19 Q Do you want that to happen?

20 A No.

21 Q What incentive has that given to you, to lie or tell
22 the truth?

23 A To tell the truth.

24 Q Sir, approximately how many times after you started
25 cooperating were you debriefed by the government?

Vitale - Direct/Buretta

2910

1 A I can't -- I can't put a figure on that. Numerous.
2 Numerous occasions.

3 Q How many years have you been debriefed?

4 A Since January 9 of '03.

5 Q Back in 2003, did any agents from the Bonanno
6 organized crime squad talk to you?

7 A Repeat the question.

8 Q When you started cooperating, did agents of the
9 Bonanno organized crime family (sic) start talking to you?

10 A Yes.

11 Q You talked to agents from other squads for other
12 crime families?

13 A The only one I really remember talking to is the
14 Gambino squad. I might have talked to other squads, I
15 don't recall.

16 Q What has the focus of your debriefings been about,
17 what crime family?

18 A The Bonanno family.

19 Q At some point did you discuss the Colombo family?

20 A I might have. You mean recently or --

21 Q Back when you started cooperating.

22 A I don't recall.

23 Q Recently have talked about the Colombo family?

24 A Yes.

25 Q Describe for the jury how it is you came about you

Vitale - Direct/Buretta

2911

1 were talking about the Colombo family with the government.

2 A A U.S. Attorney come to see me; I think her name is
3 Deborah Mayer. And she asked me about Tommy Shots, what I
4 knew about Tommy Shots. The whole conversation was
5 wrapped around Tommy Shots. It was going on and on and on
6 after a couple of hours, I said Tommy Shots drove me to an
7 appointment to see Allie Boy and that's how the situation
8 with Allie Boy showed up. But it was -- I think she
9 really came trying to find out what Tommy Shots does more
10 than Allie Boy. It was really based on Tommy Shots.

11 Q Were there FBI agents there?

12 A Yes.

13 Q Did anyone in the room suggest to you what to say
14 about anything?

15 A Never.

16 Q Did they tell you what to say about Allie Boy?

17 A No.

18 Q Did they tell you anything about Allie Boy?

19 A No.

20 Q Did they tell you anything about Tommy Shots?

21 A No.

22 Q Did they tell you anything about Colombos?

23 A No.

24 Q The Colombo war?

25 A I brought it up to them. They didn't bring up to me.

Vitale - Cross/Kedia

2912

1 Q Did they say the name Wild Bill to you?

2 A No; she was interested in Tommy Shots.

3 Q Sir, did you make up what you just said about the
4 meeting you had with Allie Boy?

5 A Not at all.

6 Q Is that in your interest?

7 MS. KEDIA: Objection.

8 THE COURT: Sustained.

9 Q Do you want to be here testifying against Allie Boy?

10 A No.

11 Q Why?

12 A I have nothing against Allie Boy.

13 Q What do you mean you have nothing against him?

14 A I was just told to tell the truth. You told me to
15 show up and I showed up.

16 MR. BURETTA: Nothing further.

17 CROSS-EXAMINATION

18 BY MS. KEDIA:

19 Q Mr. Vitale, you were just asked questions about your
20 recent meetings with government officials, prosecutors and
21 agents from the FBI, right?

22 A True.

23 Q You said that a prosecutor came to see you about a
24 person by the name of Tommy Gioeli?

25 A A person named who?

Vitale - Cross/Kedia

2913

1 Q Tommy Shots.

2 A Yes.

3 Q Do you know what Tommy Shots' last name is?

4 A No.

5 Q When a prosecutor came to see you about a person
6 named Tommy Shots, what is it specifically that was said
7 to you?

8 A She just asked me: Do you know anything about Tommy
9 Shots.

10 Q Did she use those words, Tommy Shots, the name Tommy
11 Shots?

12 A She might have mentioned his name. If she mentioned
13 his name, I would say: Who is that?

14 Q And then you were informed that it was Tommy Shots
15 that this prosecutor wanted to know about, right?

16 A That's possible.

17 Q And we are talking about -- you said the woman's name
18 is Deborah Mayer we are talking about, an Assistant
19 sitting at this table, right?

20 A That's true.

21 Q Do you have a specific recollection of whether she
22 used the words Tommy Shots or whether she used a different
23 name?

24 A I don't recall.

25 Q Do you know whether she knew that you knew Tommy

Vitale - Cross/Kedia

2914

1 Shots by the name Tommy Shots?

2 MR. BURETTA: Objection.

3 THE COURT: Sustained.

4 Q Well, how is it that this conversation arose? If you
5 were asked about a person by the name of Tommy Lapinoza,
6 would you have said: Who is that?

7 A I might have. I might have said: Do you have a
8 nickname? Do you have a picture? A lot of people I might
9 not know the name but by sight.

10 (Continued on the next page.)

11

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Vitale - Cross/Ms. Kedia

2915

1 CROSS-EXAMINATION (Continued)

2 BY MS. KEDIA:

3 Q. Well, when you say, *I might have said*, you're talking
4 about conversations that you were having in very, very
5 recent months. Right?

6 A. True.

7 Q. So what was said?

8 A. I don't recall if she used his last name or if she
9 used Tommy Shots.

10 Q. Now did you understand that she was one of the
11 assistants coming in to try a case against Allie Boy
12 Persico?

13 A. No, she never told me that.

14 Q. Obviously, you understand that now. Right?

15 A. I would say so, yes.

16 Q. Now, when, in your best recollection, when was this
17 first conversation with the government about Tommy Shots?

18 A. July, August -- mid-August, August.

19 Q. And what agents were present?

20 A. Kim McCaffrey, an individual named Steve -- Steve,
21 another agent, Deborah, and another prosecutor called
22 Paige Petersen.

23 Q. Those are all of the people that were present?

24 A. There was four people.

25 Q. And when you were interviewed at that point in time,

Vitale - Cross/Ms. Kedia

2916

1 were those agents taking any notes?

2 A. I believe they were. They always take notes.

3 Q. Every meeting that you had they take notes?

4 A. 95 percent of the time, yes.

5 Q. And how long was that meeting with Ms. Mayer and
6 these agents and this other prosecutor, I believe Paige
7 Petersen?

8 A. Uh-Huh. I would say a couple of hours.

9 Q. After that meeting, when is the next time that you
10 met with prosecutors having to do with Tommy Shots or
11 anyone from -- or anyone in the Colombo family?

12 A. Soon after.

13 Q. Soon after, meaning?

14 A. A couple of weeks, September.

15 Q. And who did you meet with then?

16 A. I said, Mr. Buretta.

17 Q. Mr. Buretta?

18 A. Mr. Buretta.

19 Q. And who else?

20 A. The same FBI agent, Steve.

21 Q. Steve?

22 A. I think Carillo.

23 Q. Steve Carillo?

24 A. Yes.

25 Q. And is that an FBI agent whom you had known for some

Vitale - Cross/Ms. Kedia

2917

1 period of time?

2 A. Just recently.

3 Q. Just from this first meeting?

4 A. No, no, maybe I know him for about a year.

5 Q. You had had discussions with him previously?

6 A. About Tommy Shots?

7 Q. About anything.

8 A. No.

9 Q. You had never had any discussions with him?

10 A. I have had some -- only discussions with -- I don't
11 understand the question.

12 Q. This agent, Steve Carillo, you said you had met him
13 approximately a year before?

14 A. I met him when Kim McCaffrey was transferred to
15 Washington, which had to be -- you know what? Usually I
16 met with Kim.

17 Kim brought Steve as a second chair. And I met
18 with Kim. Kim went to Washington. And then he took over,
19 five months ago -- six months ago.

20 Q. Meaning took over interviewing you?

21 A. Took over coming with the US Attorney when they would
22 come to see me.

23 Q. So on this particular occasion in September,
24 September 25th, 2007, is that?

25 A. September what?

Vitale - Cross/Ms. Kedia

2918

1 Q. 25, 2007, is that -- do you have a recollection of
2 when this meeting was?

3 A. I didn't say that.

4 Q. I'm asking you, does that refresh your recollection
5 as to when this meeting was?

6 A. I don't know the date.

7 Q. Some time in September you understand this meeting to
8 have occurred. Right?

9 A. True.

10 Q. Mr. Buretta, Mr. Carillo and who else?

11 A. Who?

12 Q. Who else was present at this meeting?

13 A. Well, what were the first names you mentioned?

14 Q. Well, you said you had a meeting in September with
15 prosecutors and agents. Right?

16 A. And Mr. Buretta and Steve.

17 Q. And Steve and who else?

18 A. I think there was a new FBI agent there. I don't
19 know his name. I know his last name is Johnson; I don't
20 know his first name.

21 Q. Johnson?

22 A. Is his last name.

23 Q. Anyone back here that you recognize as having been
24 there?

25 A. Yes, the agent in -- with the silver gray hair. I

Vitale - Cross/Ms. Kedia

2919

1 think his name is Vinnie.

2 Q. The one in the middle, you think his name is Vinnie?

3 A. Yes.

4 Q. Anyone else?

5 A. No.

6 Q. Okay. So now the four individuals that were present
7 at this meeting?

8 MR. BURETTA: Objection.

9 MS. MAYER: Objection.

10 THE COURT: Sustained.

11 BY MS. KEDIA:

12 Q. How many individuals were present at this meeting?

13 A. Three, four.

14 Q. When you say three or four, do you have a clear
15 recollection?

16 A. One time it was three; one time it was four.

17 Q. Now, when you say *one time it was three, one time it*
18 *was four*, you're talking about one meeting with Ms. Mayer
19 with three or four, and one with --

20 A. No, that was one meeting. Then there was another
21 meeting.

22 Q. What?

23 A. There was another meeting with Mr. Buretta, and
24 Steve, and that individual Johnson, and his name is
25 Jimmy -- I'm not sure.

Vitale - Cross/Ms. Kedia

2920

1 Q. Now, when you met -- and there were several other
2 meetings with prosecutors and agents in the recent weeks?

3 A. Sure.

4 Q. Is that right?

5 A. Uh-huh.

6 Q. All on the subject of Allie Persico. Is that right?

7 A. I don't think it was all directed at Allie Boy. I
8 think it was directed at the Colombo family, other
9 individuals.

10 Q. Jackie, you weren't asked about -- you were asked
11 about Jackie DeRoss, certainly. Right?

12 A. Yes.

13 Q. And Mr. Persico, you were asked about. Right?

14 A. Yes.

15 Q. And this cooperating started January 24th, I think
16 you said 2003?

17 A. Yeah.

18 Q. That was some almost five years ago now?

19 A. True.

20 Q. And you said you don't have a clear recollection
21 prior to having met with Ms. Mayer a couple of weeks
22 before your meeting with Mr. Buretta, about the Colombo
23 family. Is that right?

24 A. Did I meet with other agents?

25 Q. Right?

Vitale - Cross/Ms. Kedia

2921

1 A. Of the Colombo family?

2 Q. Other agents regarding the Colombo family.

3 A. I don't think so. I'm not sure.

4 Q. Well, Mr. Vitale, do you recall meeting with an agent
5 by the name of Carmichael?

6 A. I may have.

7 Q. Do you recall specifically being asked what you know
8 about Allie Boy Persico?

9 A. May have, I don't recall.

10 Q. Let me show you what is marked as 3500 SV-20,
11 page 152.

12 MS. KEDIA: I'm going to show the witness what
13 is marked as SV-20 pages 152 and 155.

14 A. Okay.

15 Q. Mr. Vitale, having looked at that document, does that
16 refresh your recollection that, in fact, you met with
17 agents back in September 2003, that you were asked
18 questions about the Colombo family, and specifically Allie
19 Boy Persico?

20 A. That is what the document says, but I don't recall
21 that.

22 Q. Well, when you met Ms. -- with agents and prosecutors
23 recently, in the last month or two of this year?

24 A. Yes.

25 Q. Did they give you any documents to refresh your

Vitale - Cross/Ms. Kedia

2922

1 recollection that, in fact, you had spoken about the
2 Columbos and Allie Boy Persico back in 2003?

3 A. No.

4 Q. You testified on direct examination that the
5 prosecutors and agents didn't suggest to you to say
6 anything about Wild Bill. Right?

7 A. I'm sorry. Repeat the question.

8 Q. They didn't suggest to you to tell them anything
9 about Wild Bill. Right?

10 A. No, it was all about Tommy Shots.

11 Q. When you say *it was all about Tommy Shots*, your first
12 meeting with Ms. Mayer, you're saying, was about Tommy
13 Shots. Right?

14 A. True.

15 Q. When you met with Mr. Buretta, it certainly wasn't
16 all about Tommy Shots. Right?

17 A. No.

18 Q. Now, you testified on direct examination that when
19 you met with Mr. Buretta, Ms. Mayer and agents, that it
20 wasn't suggested to you that you should speak about Wild
21 Bill. Right?

22 A. Repeat the question.

23 Q. When you met either at your first meeting with
24 Ms. Mayer and agents, or at your next meeting with
25 Mr. Buretta and agents, or at any subsequent meetings with

Vitale - Cross/Ms. Kedia

2923

1 the prosecutors and agents -- we're talking about just
2 meetings you have had in recent weeks, in 2007.

3 A. Right.

4 Q. You testified on direct examination that it wasn't
5 suggested to you that you should talk about your knowledge
6 of Wild Bill. Is that right?

7 A. It started -- we have to take a step back. It
8 started with Tommy Shots, and it ended with Allie Boy and
9 Wild Bill.

10 Q. Now --

11 A. In other words, other -- there are other individuals
12 named in this document, a whole bunch of individuals.

13 Q. So is your testimony that it was suggested to you
14 that you speak about Wild Bill and Allie Boy Persico?

15 A. If I mention a name, they would say, *Tell us about*
16 *that individual. What do you know about him? What did*
17 *you hear about him?*

18 Q. And that is something that similarly happened over
19 the course of your almost five years of cooperation.
20 Right?

21 A. If I mentioned an individuals name?

22 Q. Yes.

23 A. They say, *What else? What do you know about him?*

24 Q. That is what typically happens in every one of your
25 sessions with the government. Is that right?

Vitale - Cross/Ms. Kedia

2924

1 A. I volunteer. They keep asking.

2 Q. So now, in September of 2003, you were asked about
3 what you knew about Allie Boy Persico?

4 MR. BURETTA: Objection, asked and answered.

5 THE COURT: Sustained.

6 BY MS. KEDIA:

7 Q. Now, Mr. Vitale, were you asked in September 2003
8 what you know about that individual, Allie Boy Persico?

9 MR. BURETTA: Same objection.

10 THE COURT: Same ruling.

11 BY MS. KEDIA:

12 Q. Well, what were you specifically asked in September
13 of 2003 about the Colombo family?

14 MR. BURETTA: Objection.

15 THE COURT: Same ruling. Sustained.

16 MS. KEDIA: I didn't ask this question.

17 THE COURT: All right. Come up. Don't argue.

18 (The following occurred at sidebar.)

19 THE COURT: I want to make sure I have the right
20 Bates stamp material. You showed him a 152 to 154?

21 MS. KEDIA: And on the top it says 152 -- I
22 believe it is to 155.

23 THE COURT: Okay. That relates to a debriefing
24 session in November?

25 MR. BURETTA: Of 2003.

Vitale - Cross/Ms. Kedia

2925

1 THE COURT: Of 2003. She is now talking about
2 September 2003.

3 Do you have other pages that relate to
4 September?

5 MS. KEDIA: Judge, it is transcribed and it says
6 September 18, 2003.

7 MR. BURETTA: He said he doesn't recall the
8 debriefing, and she is pursuing it over and over again.

9 MS. KEDIA: I'm asking him generally.

10 MR. BURETTA: You have already asked that.

11 MS. KEDIA: Having had a discussion about Allie
12 Boy Persico?

13 THE COURT: Four times now.

14 MR. BURETTA: She already asked that.

15 THE COURT: Did you --

16 MS. KEDIA: There are other documents about the
17 situation.

18 THE COURT: You're not going to be able to show
19 many other documents unless he has adopted these
20 documents.

21 MS. KEDIA: He was asked about meeting
22 individuals, not just Allie Boy Persico; that is what I'm
23 asking him about now.

24 THE COURT: All right. And he has indicated
25 that he doesn't recall.

Vitale - Cross/Ms. Kedia

2926

1 MS. KEDIA: This is what he has testified to,
2 *that at that meeting I was asked not just about Allie Boy*
3 *Persico but about many other individuals.*

4 MR. BURETTA: She is reading off the document to
5 show -- and the witness said he didn't recall the
6 meetings. He looks down at the document, and he said
7 there were many other individuals, because he is reading
8 the document.

9 THE COURT: The question pertained to the
10 Colombo crime family.

11 You had a number of questions related to what
12 was asked about Allie Persico. All right? You have had
13 that.

14 So move on now.

15 MS. KEDIA: I'm sorry. I don't understand.

16 THE COURT: I think you understand.

17 MS. KEDIA: No, I'm sorry, I don't. I just --
18 let me clarify.

19 THE COURT: All right.

20 MS. KEDIA: The witness testified after having
21 looked at this. *I was asked about a number of*
22 *individuals, not just Allie Boy Persico.*

23 So now I want to ask him about what he was asked
24 about Allie Boy Persico, or what he recalls saying about
25 Allie Boy Persico.

Vitale - Cross/Ms. Kedia

2927

1 I haven't asked him that question. He said, a
2 *number of individuals*, Judge.

3 THE COURT: Let's go back to the last couple of
4 questions that were asked.

5 Can you go back on the record?

6 (The appropriate portions of the testimony were
7 read back by the reporter.)

8 (The following occurred in open court.)

9 THE COURT: Objection is sustained.

10 BY MS. KEDIA:

11 Q. Mr. Vitale, I asked you about whether you had a
12 recollection of meeting with an agent by the name of
13 Carmichael. Right?

14 Do you remember that question? And you said you
15 don't recall.

16 MR. BURETTA: Objection.

17 THE COURT: Sustained.

18 MS. KEDIA: I'm just getting to the point,
19 Judge.

20 BY MS. KEDIA:

21 Q. I'm going to show you what is marked as 3500 SV-197.

22 A. I can't make out the handwriting.

23 Q. You can't read any of it?

24 A. (No verbal response.)

25 Q. If I can direct your attention to the top of page 2.

Vitale - Cross/Ms. Kedia

2928

1 MS. KEDIA: Your Honor, if I could approach the
2 witness to direct his attention to a certain location.

3 BY MS. KEDIA:

4 Q. Mr. Vitale, having looked at that document, does that
5 refresh your recollection that you were asked about
6 members of the Colombo family, including Tommy Shots, Wild
7 Bill and Mr. DeRoss?

8 A. No.

9 Q. Does it refresh your recollection in any way that you
10 were interviewed by an agent by the name of Magee
11 Carmichael?

12 A. I might have.

13 Q. You may have. You were interviewed by any number of
14 agents over the course of a number of years. Is that
15 right?

16 A. Yes.

17 Q. Now, in one interview with agents and prosecutors, do
18 you recall mentioning that Wild Bill ran away?

19 A. No.

20 Q. Well, let me show you what is marked as 3500 SV-20.
21 I'm referring your attention to this portion of the
22 document. You can certainly refer to any portion you
23 like.

24 And I also refer your attention to the top of
25 the first page, the top right-hand corner.

Vitale - Cross/Ms. Kedia

2929

1 A. Right.

2 Q. Does that -- having looked at that document, does
3 that refresh your recollection that in August of 2004 you
4 met with agents and prosecutors -- or at least agents, and
5 said that Wild Bill ran away?

6 A. When we -- can I explain that? When we say -- I was
7 just saying, Dave Fonti ran away. He ran away. It is
8 not -- it is not how it is written; it is how it was said.

9 Q. Mr. Vitale, having looked at the document, it
10 refreshes your recollection that you said -- that the
11 words used were that Wild Bill ran away. Right?

12 A. Not on paper.

13 Q. What does that mean, *not on paper*?

14 A. Because I can say those three captains ran away. It
15 doesn't mean they are on the lam running away. It means
16 you ain't gonna see them no more. I am not going to
17 say -- well, we killed those three guys.

18 Q. When you are cooperating with the government?

19 A. Yes.

20 Q. After January 9, 2003, you had what, some 200 or 300
21 or 400 or even 500 meetings. Right?

22 A. Over the course of the last five years? I don't
23 think it was that many.

24 Q. How many?

25 A. A lot.

Vitale - Cross/Ms. Kedia

2930

1 Q. A lot.

2 When you talked about -- let's say the murder of
3 the three captains that you personally were involved in,
4 did you tell agents and prosecutors that you were involved
5 in murdering those three captains, or did you tell them
6 that those three captains ran away?

7 A. The fact of killing them I was involved in, then they
8 ran away.

9 Q. What did you just say?

10 A. If I was to explain it to someone, I would say they
11 ran away. It's a term. It doesn't mean the way he wrote
12 it -- doesn't come off the way you're saying it.

13 Q. When you say it was a term, when you were speaking to
14 agents of the FBI -- of the Federal Bureau of
15 Investigation and prosecutors from the US Attorney's
16 office, when you spoke about murder that you were involved
17 in, is it your testimony that you told them that the
18 people ran away as opposed to that you participated in
19 murdering them?

20 A. I could use that terminology; that you're never going
21 to see them again. He ran away. And if he wrote it that
22 way, that is his business.

23 Q. Well, Mr. Vitale, I know what you could have done.

24 A. Wait --

25 Q. I'm asking you what you did do.

Vitale - Cross/Ms. Kedia

2931

1 When you met with agents and prosecutors and
2 told them about the murder of the three captains, this is
3 an event that occurred all at one time. Right? Three
4 captains were murdered on the same date with your
5 assistance. Right?

6 A. True.

7 Q. When you met with prosecutors and agents and told
8 them about your participation in those three --
9 participation in those three murders, did you say that the
10 captains were murdered; that the bodies were buried by
11 members of the Gambino family? Or did you say that the
12 three captains *ran away*?

13 A. I could have said at that meeting I participated in
14 killing those three captains and the Gambinos made them
15 run away. It is a term. It's done -- are you asking me
16 do I believe Wild Bill ran away or Wild Bill was killed?

17 Q. I'm asking you what you remember telling the agents
18 of the FBI.

19 A. I don't recall.

20 Q. Well, let me show you what is marked as SV-20,
21 pages 25 to 28?

22 A. Okay.

23 Q. Have you had a chance to review that document?

24 A. I think I know -- I know what this document says.

25 Q. Well, when you say you think you know, why do you

Vitale - Cross/Ms. Kedia

2932

1 know?

2 A. Because it's about the murder of the three captains.

3 Q. It is about what you told agents about the murder of
4 the three captains. Right?

5 A. This is an official 301. True. This is an official
6 document. These are notes.

7 Q. Well, Mr. Vitale, do you recognize this to be an
8 official document?

9 A. I know this is an official document.

10 Q. Now, anywhere in there does it refresh your
11 recollection that -- having read that or knowing what this
12 document says, does it refresh your recollection that when
13 you spoke about the murder of the three captains, you told
14 agents that they were murdered, not that they ran away?

15 MR. BURETTA: Objection to the form.

16 THE COURT: Sustained.

17 BY MS. KEDIA:

18 Q. Well, Mr. Vitale, having looked at that do you
19 mean -- does it refresh your recollection about telling
20 the agents when you met with them that in 2003, describing
21 the murder of the three captains in -- and relating that,
22 in fact, they were murder?

23 A. It doesn't say that, that they were murdered.

24 Q. Now, when you spoke about the murder of Sonny Black,
25 that is another murder you participated in. Right?

Vitale - Cross/Ms. Kedia

2933

1 A. True.

2 Q. And these are murders that you started participating
3 in 25 or more years ago. Right?

4 A. True.

5 Q. In fact, the first murder you participated in was
6 more than 30 years ago. Right?

7 A. True.

8 Q. That is how long you have been committing murders?

9 A. True.

10 Q. When you met with agents about the murder of Sonny
11 Black, do you recall telling them that Sonny Black ran
12 away or do you recall telling them that Sonny Black was
13 murdered?

14 A. I don't recall.

15 Q. I'm going to show you what is marked as 3500 SV-20,
16 pages 22 to 24.

17 A. I'm done.

18 Q. Mr. Vitale, having looked at that document, does it
19 refresh your recollection that when you spoke about the
20 murder of Sonny Black, in fact, you told agents in vivid
21 detail about the murder of Sonny Black and that, in fact,
22 he was murdered?

23 A. I did tell them he was murdered.

24 Q. You didn't tell them that he ran away. Right?

25 A. No.

Vitale - Cross/Ms. Kedia

2934

1 Q. When you told agents, Mr. Vitale, about the four --
2 about the seven other murders that you were involved in,
3 do you recall telling them that, in fact, each of those
4 individuals were murdered, not that they ran away?

5 A. I might have used both expressions.

6 Q. Well, let me show you then what is marked as
7 3500 SV-20, page 8.

8 MS. KEDIA: Pages 8 through 10, your Honor.

9 A. Okay.

10 BY MS. KEDIA:

11 Q. Do you recall telling the agents about the murder of
12 a man by the name of Cesar Bonventre?

13 A. Yes.

14 Q. Yes?

15 A. Yes.

16 Q. And this is a murder that you were involved in back
17 in 1984. Right?

18 A. True.

19 Q. Do you recall telling agents or prosecutors when you
20 met with them about the murder of Cesar Bonventre that, in
21 fact, Cesar Bonventre was murdered and you participated in
22 that murder?

23 A. That's true.

24 Q. You didn't tell them that Cesar Bonventre ran away,
25 did you?

Vitale - Cross/Ms. Kedia

2935

1 A. I might have. I don't have their notes.

2 Q. Well, let me ask you. When you say you might have,
3 Cesar Bonventre certainly didn't run away. Right? Is
4 that right?

5 A. To the rest of the family, he ran away. I knew what
6 happened to him.

7 Q. Well, you participated in murdering him. Right?

8 A. And they never found -- we tried to hide the body.

9 So if someone was to ask me at his funeral where
10 is Cesar, I would say, *Cesar ran away*.

11 Q. So back in 1984 when Cesar Bonventre went missing,
12 did you say to your other Bonnano fellow criminals that he
13 might have run away. Is that right?

14 A. I'm not going to admit it. I participated in a
15 murder. I'm not going tell them about a murder.

16 Q. Because you don't talk to people about murders that
17 they didn't participate in. Right?

18 A. I don't.

19 Q. That was a cardinal rule of yours. Right?

20 A. People break rules all the time. I don't.

21 Q. I'm asking about you, Mr. Vitale?

22 A. I don't.

23 Q. You don't. Right?

24 A. I don't.

25 Q. And that was something that is instilled in you by

Vitale - Cross/Ms. Kedia

2936

1 Mr. Massino. Right?

2 A. True.

3 Q. When you met with agents and prosecutors in 2003,
4 after you began cooperating, it is your testimony that
5 then you decided you were going to be truthful about what
6 happened to all these people you were involved in
7 murdering. Right?

8 A. I have to be truthful, sure.

9 Q. So certainly at that moment in time you weren't
10 pretending any longer that Cesar Bonventre ran away.
11 Right? Are you trying to say that the minute you
12 cooperate you change your way of thought and you change
13 your language of how you would pass a remark to someone?

14 Is that what you're --

15 A. Well, as I would say, well, we murdered him. We shot
16 him three times. We buried him.

17 Or I would just say, I told -- I told him Cesar
18 ran away.

19 Q. When you met with agents and prosecutors after you
20 started cooperating, did you tell the agents -- did you
21 use your street lingo back from 20 years ago and say that
22 he ran away, or did you describe in vivid detail how Cesar
23 Bonventre was murdered?

24 MR. BURETTA: Asked and answered.

25 THE COURT: Sustained.

Vitale - Cross/Ms. Kedia

2937

1 BY MS. KEDIA:

2 Q. Let me ask you about George Sciascia.

3 That is another murder you were involved in.
4 Right?

5 A. Yes.

6 Q. Is that how you say his last name?

7 A. I believe so, Sciascia.

8 Q. George Sciascia is a murder that you were involved in
9 in 1999. Right?

10 A. Yes.

11 Q. Well, when you paused, do you have a recollection of
12 that or do you not?

13 A. It was the spring of '99 -- I believe it was May of
14 '99. I'm not sure.

15 Q. Well, let me ask you. You pled guilty to all of
16 these murders. Right?

17 A. Yes.

18 Q. And when you pled guilty to the murders, you pled
19 guilty pursuant to an indictment. Right?

20 A. Repeat the question.

21 Q. There was an indictment. Right? You were charged in
22 an indictment. Right?

23 A. On George's murder --

24 Q. Well, you were charged initially in an indictment on
25 one murder. Right?

Vitale - Cross/Ms. Kedia

2938

1 A. Yes.

2 Q. And then you began cooperating and you told agents
3 and prosecutors about 11 murders that you were involved
4 in. Right?

5 A. Yes.

6 Q. And then you pled guilty to those 11 murders. Right?

7 A. Yes.

8 Q. And there was an official document that laid out the
9 11 murders that you were pleading guilty to. Right?

10 A. True.

11 Q. And the official document contained the dates of the
12 those murders. Right?

13 A. I'm not aware of that. It may -- it might.

14 Q. I'm going to show you what is marked as 3500 SV-2C?

15 A. Okay.

16 Q. Now, you pled guilty to what is called superseding
17 information. Right?

18 A. I guess.

19 Q. Well, you went to court and you literally said to a
20 Judge, *I participated in these 11 murders*. Right?

21 A. I didn't hear you.

22 Q. You went to with a courtroom, a federal courtroom.
23 Right?

24 A. Yes.

25 Q. And you told the Judge about your participation in

Vitale - Cross/Ms. Kedia

2939

1 11 murders. Right?

2 A. True.

3 Q. And when you did that, certainly you didn't go into
4 the details of each and every murder. Right? In front of
5 that Judge.

6 A. I think in chambers he asked what my participation
7 was, and what actually went down.

8 Q. Well, when you say --

9 A. He was very inquisitive.

10 Q. When you say in chambers he asked you about the
11 details, did you plead guilty in an open courtroom like
12 this?

13 A. No. No.

14 Q. So when you say in chambers, you're talking about a
15 time period where there was a stenographer like the one
16 that is here?

17 A. I believe in chambers there was a stenographer.

18 Q. And you were actually pleading guilty to the Judge.
19 Right?

20 A. Yes.

21 Q. And you were being asked questions about your
22 involvement in 11 murders. Right?

23 A. Yes.

24 Q. And one of the questions that you were asked is when
25 these murders occurred. Is that right?

Vitale - Cross/Ms. Kedia

2940

1 A. Approximate. I wasn't keeping a record of what day
2 we killed what individual. I might say early '99 -- March
3 of '99, May of 99.

4 Q. And that was the most recent murder that you were
5 involved in. Right, 1999?

6 A. Yes.

7 Q. When you went back to your murders in 1984 and 1981,
8 did you have a specific recollection of what years those
9 murders were?

10 A. I knew the captains were in '81.

11 Q. How do you know that?

12 A. I just remembered the date because it was my son's
13 birthday.

14 Q. The three captains -- you were there when the three
15 captains were murdered. Is that right?

16 A. Yes.

17 Q. And it was your son's birthday?

18 A. Yes.

19 Q. Now, what about the other murders?

20 A. What other murder?

21 Q. The other murders that you were involved in, did you
22 have a specific recollection?

23 A. I knew Sonny Black was shot after that period of
24 time. It could have been a month, it could have been two
25 months. I know Cesar told me when Mr. Massino was on the

Vitale - Cross/Ms. Kedia

2941

1 I am. I know it was when Mr. Massino was in MCC. When
2 they are asking you dates, you try to put it into an event
3 in your life.

4 THE COURT: Ms. Kedia, I think we'll take our
5 break for lunch.

6 We'll resume back here at 1:15.

7 Is that too difficult for you folks? Okay.

8 (A luncheon recess was taken at 12:33 p.m.).

9

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Vitale - Cross/Ms. Kedia

2942

1 AFTERNOON SESSION

2 (Outside the presence of the jury.)

3 THE COURT: What is your application, Ms. Kedia?

4 MS. KEDIA: This witness just testified about a
5 meeting with Ms. Mayer and three agents in which he said
6 that notes were taken. I haven't been given any type of
7 notes of such a meeting. And I would ask that they be
8 produced.

9 THE COURT: I think he said it was a meeting
10 with Ms. Mayer and two agents.

11 MS. KEDIA: You're right, Judge.

12 MR. BURETTA: All notes have been produced,
13 Judge.

14 THE COURT: All right. Thank you.

15 Ms. Kedia, how long are you going to be with
16 this witness?

17 MS. KEDIA: I'm going to be definitely the rest
18 of the afternoon, Judge.

19 THE COURT: Come on up and let me hear your
20 offer of proof up here.

21 (The following occurred at sidebar.)

22 THE COURT: You started with the witness at
23 11:47. The government started their direct examination --
24 was it ten?

25 MR. GOLDBERG: About 10:45.

Vitale - Cross/Ms. Kedia

2943

1 THE COURT: So they did slightly over an hour of
2 cross-examination between 11:47, and we stopped for the
3 luncheon recess at 12:35.

4 So I would say a fair balance would be if the
5 government has one hour, that you take no more than two
6 hours. And then Mr. LaRusso will have his two hours.

7 MS. KEDIA: Your Honor, I'm sorry. I have many
8 areas to cover.

9 THE COURT: Tell me what you have.

10 MS. KEDIA: I can actually even show the Court
11 my specific outline of the areas that I have to cover.

12 And I can tell the Court that it will take the
13 rest of the afternoon, the number of unexplained hits --

14 THE COURT: We have gone through some of that.

15 MS. KEDIA: I haven't talked about any of them
16 yet. This witness testified about having been involved in
17 11 murders. There are a few that he is involved in,
18 despite his testimony to the contrary -- a few he was
19 involved in without consulting the boss of the family,
20 that he has testified to in the past.

21 And I also want to bring out various things
22 regarding, obviously not ever detail, but regarding much
23 of the murders. But certainly details to show the
24 difference in, for example the Campanella shooting and the
25 murders that he is involved in, the details and the

Vitale - Cross/Ms. Kedia

2944

1 organized --

2 THE COURT: You want to do a comparison. What
3 else?

4 MS. KEDIA: Yes, Judge.

5 His position versus Massino's position, versus
6 Spero's position; how it fluctuated within the family; the
7 underboss, the boss, and at certain points Spero is the
8 acting boss. That changes between him and Spero. And
9 various other people when they are incarcerated. I think
10 that is relevant.

11 THE COURT: You figure two weeks on it?

12 MS. KEDIA: No, Judge, I don't.

13 But I can tell the Court that this witness has
14 testified in five prior are trials. And in every trial he
15 has testified in -- five trials in the Eastern District --
16 he has always been on the stand a minimum of two days, and
17 sometimes more. And I don't expect to go into all kinds
18 of details about the murders. I'm not suggest to you that
19 I want to, or that I need to. But there are certain
20 things that I would ask that I be permitted to bring out.

21 THE COURT: In view of the fact that the direct
22 was pretty focused, I will not permit you to go on for --

23 MS. KEDIA: I understand.

24 THE COURT: -- for a protracted period of time.

25 MS. KEDIA: I don't want to do that.

Vitale - Cross/Ms. Kedia

2945

1 THE COURT: What is your response?

2 MR. BURETTA: Your Honor, the direct is one
3 hour. And he has testified almost exclusively in Bonanno
4 cases.

5 What he knows here is very specific. And that
6 is what I kept him focused on, as the Court obviously
7 knows. There is no reason they can't finish his cross
8 today. They should pick what is important and cross him
9 on it. Just what they haven't done yet in this trial.
10 There is no reason --

11 THE COURT: You didn't bring him in as an
12 expert --

13 MR. BURETTA: Correct.

14 THE COURT: -- in terms of the Mafia. You only
15 asked him what his direct position was in the Bonanno
16 family, and what if any interaction the Bonannos had with
17 the Colombo crime family. And that was it. And the
18 specific areas with regard to the administration with
19 Mr. Persico.

20 MS. KEDIA: And the Colombo order.

21 MR. BURETTA: The Judge covered that.

22 MS. KEDIA: I haven't covered the Colombo order
23 at all.

24 MR. BURETTA: I said the Judge covered that.

25 THE COURT: Let's focus on those areas, and you

Vitale - Cross/Ms. Kedia

2946

1 will get done in two hours.

2 MS. KEDIA: I don't think I will. I'm not going
3 to delay or anything. I will keep going.

4 THE COURT: You may not get done, but that may
5 be your entire cross-examination.

6 MR. LaRUSSO: One other thing. This man's
7 criminal record to set up an argument that the way the
8 murders went down, the shooting with -- in this case. It
9 had to have been the same way. He went into the facts
10 about Massino being on the lam. He talked about him --

11 THE COURT: That is in response to --

12 MR. LaRUSSO: They brought it out. I'm just
13 saying it wasn't just restricted to certain specific --
14 they brought out his criminal record to show -- in this
15 case, first of all, I think it is improper.

16 MR. BURETTA: Judge, I actually truncated his
17 criminal history. I didn't even talk about each of the
18 murders he did. I kept it short.

19 So far where the cross goes is, they start with
20 the most collateral thing. And then about six hours in
21 they finally get to the cross.

22 MS. KEDIA: I think I started with the most
23 recent thing, actually, and not collateral.

24 THE COURT: You did.

25 MR. BURETTA: I'm not talking about this cross.

Vitale - Cross/Ms. Kedia

2947

1 I'm talking about how this trial is going that. It is not
2 what I'm talking about. I'll say what I'm talking about.

3 So we have started with the -- so there is no
4 reason why we can't finish today.

5 THE COURT: Okay. Two hours.

6 (The jury entered the courtroom at 1:39 p.m.)

7 THE COURT: I apologize for getting started so
8 late. Mr. Vitale, you're still under oath.

9 Ms. Kedia, you may inquire.

10 MS. KEDIA: Thank you, your Honor.

11 CROSS-EXAMINATION (Continued)

12 BY MS. KEDIA:

13 Q. Mr. Vitale, you testified on direct examination that
14 apart from this meeting that you described with
15 Mr. Persico, that you don't have any recollection of ever
16 having told agents in other meetings -- you don't recall
17 having Wild Bill's name come up in other meetings. Is
18 that right?

19 MR. BURETTA: Objection to the form.

20 THE COURT: Sustained.

21 BY MS. KEDIA:

22 Q. Well, do you recall testifying on direct examination
23 that apart from this one meeting that you have described
24 that you don't recall having had Wild Bill's name come up?

25 MR. BURETTA: Objection.

Vitale - Cross/Ms. Kedia

2948

1 THE COURT: Sustained.

2 BY MS. KEDIA:

3 Q. Well, Mr. Vitale, apart from this one meeting that
4 you told the prosecutors about in 2007, were there other
5 meetings with prosecutors or agents where Wild Bill's name
6 came up?

7 MR. BURETTA: Objection.

8 THE COURT: Asked and answered.

9 MR. BURETTA: Yes, and it mischaracterizes his
10 testimony.

11 MS. KEDIA: I am asking a question. I haven't
12 characterized anything.

13 THE COURT: Restate the question again.

14 BY MS. KEDIA:

15 Q. Mr. Vitale, apart from these recent meetings in 2007,
16 where you have discussed the conversation that you say you
17 had with Mr. Persico in 1999, were there any other
18 meetings with prosecutors or agents where Wild Bill's name
19 came up?

20 A. I don't recall.

21 Q. I'm going to show you what is marked as 3500 SV-20
22 152, the bottom of 152, the top of 153. If you would take
23 a look at that.

24 A. Okay.

25 Q. Now, having looked at that document, does that

Vitale - Cross/Ms. Kedia

2949

1 refresh your recollection that you had a meeting with
2 agents back in 2003 in which you told them about a meeting
3 with Joe Waverly in the year 2000 where Waverly said to
4 you something to the effect of Cutolo should be coming
5 home or popping up soon?

6 A. He didn't say it to me.

7 Q. Meaning Joe Waverly didn't say that to you?

8 A. He didn't say it to me, no.

9 Q. Did Joe Waverly say that to somebody else?

10 A. He did.

11 Q. He did.

12 This conversation with Joe Waverly occurred with
13 whom?

14 A. Mr. Massino.

15 Q. When you say *Mr. Massino*, you're talking about Joseph
16 Massino, the boss of the Bonanno family when you were the
17 underboss. Right?

18 A. True.

19 Q. And Joe Waverly at the time of this meeting, this was
20 in approximately 2000?

21 A. Yes.

22 Q. Joe Waverly at the time of this meeting was whom?

23 A. Consiglieri.

24 Q. He was the consiglieri to the Colombo family?

25 A. True.

Vitale - Cross/Ms. Kedia

2950

1 Q. And, in fact, he was, in 2000, the street boss of the
2 Colombo family. Right?

3 A. True.

4 Q. And what does a street boss handle.

5 A. He handles day-to-day affairs to protect the boss.

6 Q. And during this meeting, the person handling the
7 day-to-day affairs said to Joe Massino, the boss of the
8 Bonanno family, something to the effect of Wild Bill or
9 Billy Cutolo -- whatever name he used, should be coming
10 home or popping up soon. Right?

11 A. You're taking it out of context.

12 Q. Well, Mr. Vitale, I'm asking you -- were you present
13 at this meeting?

14 A. No, but Mr. Massino told me about it. I was
15 upstairs.

16 Q. Mr. Massino told you what was said to him. Right?

17 A. Yes.

18 Q. And that is something that you relayed to agents or
19 prosecutors in 2003. Right?

20 A. True.

21 Q. And do you recall telling those agents and
22 prosecutors that what Mr. Massino told you was said to him
23 by Joe Waverly is something to the effect that Cutolo
24 should be coming home or popping up soon?

25 A. Mr. Massino was very slighted over it. The whole

Vitale - Cross/Ms. Kedia

2951

1 commission was slighted over it because Joe Waverly was
2 fabricated not to pay a certain debt. He said, *Well, when*
3 *Bill comes home, or when he pops up, we'll worry about it.*

4 Q. Now, when you say fabricating about a certain debt,
5 what are you talking about?

6 A. I think someone asked Mr. Waverly at the table if he
7 was going to pay a certain debt. I don't know if it was
8 to the West Side or Pete Gotti. And that is when Waverly
9 made that remark.

10 Q. Meaning a debt that Waverly or someone in the Colombo
11 family owed someone in another family?

12 A. Yes.

13 Q. And so Waverly made a comment, it is your
14 understanding from Massino, that, like, *We'll let Wild*
15 *Bill take care of it when he comes home*, something like
16 that?

17 A. In our terminology, he just sloughed it off.

18 Q. Just slide past the debt. Is that fair?

19 A. Right.

20 Q. Now, you told agents and prosecutors about that
21 meeting in 2000. Right, in 2003. Right?

22 A. Excuse me?

23 Q. You told agents and prosecutors about the meeting
24 between Massino and Joe Waverly that occurred in 2000, you
25 told agents that in 2003. Right?

Vitale - Cross/Ms. Kedia

2952

1 A. Yes.

2 Q. When is the first time, Mr. Vitale -- let me ask you
3 this.

4 The first time that you told agents and
5 prosecutors anything about this supposed conversation that
6 you had with Mr. Persico about Wild Bill was in 2007.
7 Right?

8 MR. BURETTA: Objection, argumentative.

9 THE COURT: Sustained.

10 BY MS. KEDIA:

11 Q. Mr. Vitale, the first time that you ever told agents
12 and prosecutors about this meeting that you say occurred
13 in 1999 in which Mr. Persico said something to the effect
14 of; you can't take what is not yours, was in 2007. Is
15 that right?

16 A. Did I tell them about that conversation?

17 Q. That is the first time you ever told them about that
18 conversation was in 2007?

19 A. I don't recall.

20 Q. You don't recall whether you ever mentioned that to
21 anyone before?

22 A. I may have.

23 Q. Well, let me direct your attention, again, to the
24 document in front of you, SV-20, pages 152 to 155.

25 A. Yes.

Vitale - Cross/Ms. Kedia

2953

1 Q. Now, let me ask you, having looked at that document,
2 does it refresh your recollection that when you met with
3 agents in 2003, on September 18th of 2003, you didn't tell
4 them anything about this meeting that you have described
5 in this courtroom today, in which Mr. Persico supposedly
6 said to you, *You can't take what's not yours?*

7 MR. BURETTA: Objection.

8 THE COURT: Sustained.

9 BY MS. KEDIA:

10 Q. In which you say Mr. Persico said to you, *you can't*
11 *take what's not yours?*

12 MR. BURETTA: Objection.

13 THE COURT: Sustained.

14 BY MS. KEDIA:

15 Q. Mr. Vitale, having looked at that document, do you
16 have any recollection now of whether you told agents in
17 the past about this meeting previously?

18 MR. BURETTA: Objection.

19 THE COURT: Sustained.

20 BY MS. KEDIA:

21 Q. Mr. Vitale, do you recall telling agents in the past
22 that, in fact, a meeting -- you had a meeting with
23 Mr. Persico about six months after he was released from
24 prison?

25 A. Are you saying I met him more than one time?

Vitale - Cross/Ms. Kedia

2954

1 Q. No. I'm asking you, do you recall telling agents
2 when you met with them on September 18th of 2003 that you
3 had a meeting with Mr. Persico approximately 6 months
4 after he was released from prison?

5 A. I might have said that.

6 Q. I just direct your attention to the third paragraph.
7 Well, when you say you might have said that,
8 does that mean you recall having said that or you don't
9 recall?

10 A. I could have said that. I won't make it verbatim,
11 six months. I could have said six months.

12 Q. Do you know that Mr. Persico was released from prison
13 in August of 1994?

14 MR. BURETTA: Objection.

15 THE COURT: Sustained.

16 BY MS. KEDIA:

17 Q. Well, do you know when Mr. Persico was released from
18 prison?

19 A. No.

20 Q. You have no knowledge of that?

21 A. No.

22 Q. So when you say you could have said six months after
23 he was released from prison, what does that mean?

24 MR. BURETTA: Objection.

25 THE COURT: Sustained.

Vitale - Cross/Ms. Kedia

2955

1 BY MS. KEDIA:

2 Q. Well, when you told agents and prosecutors about a
3 meeting with Mr. Persico in the past, how is this that you
4 determined when this meeting occurred?

5 A. Pardon? What is the question?

6 Q. How was it that you remembered when this meeting
7 occurred?

8 A. How do I know that the meeting in '99 occurred?

9 Q. No. When you testified that you could have said six
10 months -- you might have said six months after Mr. Persico
11 was released from prison you had a meeting with him.

12 A. I don't know when Mr. Persico was released.

13 Q. So, in fact, you wouldn't have said six months after
14 he was released. Is that right?

15 MR. BURETTA: Objection.

16 THE COURT: Sustained.

17 BY MS. KEDIA:

18 Q. Well, when you -- when you say that you might have
19 said that, did the agents ask you what year Mr. Persico
20 was released from prison?

21 A. No.

22 Q. Or what your understanding was as to when this
23 occurred?

24 A. I have no knowledge when he was released from prison.

25 Q. Mr. Vitale, you testified about this statement that

Vitale - Cross/Ms. Kedia

2956

1 Mr. Persico made during this meeting. And I believe that
2 you had testified that he said, *A person can't take what's*
3 *not his. Or he can't take what's not his. Or you can't*
4 *take what's not yours.*

5 MR. BURETTA: Objection.

6 THE COURT: Sustained. Ignore the question.

7 BY MS. KEDIA:

8 Q. Mr. Vitale, what is it that was said? What are the
9 words?

10 THE COURT: You can answer.

11 A. Mr. Persico said that *you can't take what's not*
12 *yours.*

13 BY MS. KEDIA:

14 Q. Now, this -- describe this meeting, Mr. Vitale. You
15 said that you people walk in and you get introduced.
16 Right?

17 A. True.

18 Q. And this is the very first time you're ever meeting
19 Mr. Persico, apart from having seen him in some
20 location -- club?

21 A. I met him at the club. He had, I didn't me him at --

22 Q. You met him at Club A? You said this was the first
23 time you were meeting him -- I believe your words were as
24 *a friend?*

25 A. As a friend.

Vitale - Cross/Ms. Kedia

2957

1 Q. When you say *as a friend*, you mean someone involved
2 in organized crime. That is what that means?

3 A. A made member.

4 Q. So when you met him in the 1980 as -- do you recall
5 what year that was?

6 A. No.

7 Q. When you met him in the 1980s, in what kind of a
8 situation?

9 A. It was a disco or the VIP Room. He was sitting in
10 the VIP Room with a young lady. I was sitting with other
11 individuals.

12 Q. And this is like a nightclub?

13 A. Yes.

14 Q. And that -- this was where, in Manhattan?

15 A. Club A.

16 Q. In Manhattan?

17 A. Yes.

18 Q. And you met him then. Were you introduced to him?

19 A. Hello, good-bye; just hello and good-bye.

20 Q. And when you say that you met him, who was it that
21 was introducing you to him?

22 A. Angelo Ruggiero.

23 Q. And did you meet him as a member of an organized
24 crime family?

25 A. No.

Vitale - Cross/Ms. Kedia

2958

1 Q. Just like you would meet anyone else in everyday
2 life?

3 A. That's true.

4 Q. If any member of the jury would meet someone in
5 everyday life?

6 MR. BURETTA: Objection.

7 THE COURT: Sustained.

8 BY MS. KEDIA:

9 Q. Now, when -- so when you met him in 1999, it is your
10 testimony that this is the first time you're actually
11 formally introduced to him. Is that correct?

12 A. I believe so.

13 Q. Now, after this series of introductions, you said
14 that first Joe Waverly introduced you and Mr. Massino to
15 Mr. Persico. Right?

16 A. That's not true.

17 Q. That is not true?

18 A. I didn't say that.

19 Q. What happened?

20 A. Joe Waverly introduced me to Allie Boy. I introduced
21 Mr. Massino to Joe Waverly and to Allie Boy.

22 Q. And so he just made one introduction between the two
23 of you because you had not met. Right?

24 A. Repeat the question.

25 Q. Joe Waverly just made an introduction?

Vitale - Cross/Ms. Kedia

2959

1 A. Yes. Waverly was, formally introduced me as an
2 underboss. So he has introduced me to his acting boss,
3 because he never met me. And then they never met
4 Mr. Massino as official boss so I introduced Mr. Massino
5 to them.

6 Q. Meaning neither Mr. Waverly nor Mr. Persico had ever
7 met Mr. Massino as an official boss?

8 A. As official boss.

9 Q. Now, after the introductions are made -- how long is
10 this meeting in total?

11 A. How long what?

12 Q. How long is this meeting in total?

13 A. I don't recall.

14 Q. Approximately.

15 A. I don't recall.

16 Q. Do you have any recollection of whether it was under
17 a half hour?

18 A. I would say more.

19 Q. More than a half hour.

20 And you say that the -- I think you were asked
21 on direct examination whether you tried to ask for
22 additional Bonanno members to be made. Is that right?

23 A. I don't think I said that.

24 Q. You were asked the question. And you say no, you
25 don't have a recollection of that. Right?

Vitale - Cross/Ms. Kedia

2960

1 A. True.

2 Q. And you say --

3 A. Not saying that it didn't occur. I don't remember
4 every conversation. We might have said -- you make it
5 sound like we went to ask for men.

6 We didn't go to ask for men. We're talking
7 maybe you straighten out people, we'll straighten out
8 people. It is just chit-chat. It is not that we're going
9 as an official and saying we want ten of your men.

10 Q. So this wasn't really -- you're saying that you
11 weren't having official discussions about these types of
12 issues, but you may have been having little chit-chat?

13 A. I think Allie Boy, he wanted to familiarize himself,
14 get to know Mr. Massino.

15 Q. Familiarize himself with him?

16 A. Uh-huh.

17 Q. And when you say he wanted to familiarize himself
18 with him, what does that mean?

19 A. To find out where he stands, what he feels as a boss,
20 to form an allegiance, to get to know each other, have
21 open communications.

22 Q. Well, Mr. Massino -- isn't it a fact that you had
23 previously told people that Massino, in fact, supported
24 the Persico side of the room?

25 A. I think Mr. Massino -- from day one when I went to

Vitale - Cross/Ms. Kedia

2961

1 see him in Talladega, Alabama, said he was neutral. He
2 was neutral up until a certain point, and then he decided
3 to back Persico.

4 Q. What does that mean, *up until a certain point*?

5 A. Up until the commission said that we should recognize
6 Junior Persico. Then Mr. Massino said, fine.

7 Q. When was that?

8 A. In '97, '98.

9 Q. So meaning by the time that this meeting occurred,
10 you said in late 1999. Is that right?

11 A. Mid-'99, after June of '99.

12 Q. By the time this meeting occurred, there had already
13 been a commission meeting in which Junior Persico was
14 formally recognized?

15 A. Yes.

16 Q. And that happened sometime either a year or two
17 prior?

18 A. I'm sorry?

19 Q. That had happened some time in 1997 or 1998. Is that
20 right?

21 MR. BURETTA: Asked and answered.

22 THE COURT: Sustained.

23 BY MS. KEDIA:

24 Q. Well, to the best of your recollection, when, in
25 relation to this meeting that you're describing with

Vitale - Cross/Ms. Kedia

2962

1 Mr. Persico, had that occurred?

2 MR. BURETTA: Asked and answered.

3 THE COURT: Sustained.

4 BY MS. KEDIA:

5 Q. Mr. Vitale, there was a meeting that you also
6 attended that you described with a person by the name of
7 Andrew Russo. Right?

8 A. True.

9 Q. Who is Andrew Russo?

10 A. He was -- I think he was released from jail, and he
11 was actually representing the Persicos. And he is an
12 elderly gentleman, and he was representing the Persicos.

13 Q. He was representing the Persicos, meaning, he was the
14 acting boss at the time. Right?

15 A. I guess you could say that.

16 Q. And would you say that he was -- you said he was
17 released from jail.

18 Is that -- do you have a recollection of when
19 that was?

20 A. When was he released from jail?

21 Q. Yes.

22 A. I don't know.

23 Q. And became the boss.

24 A. I don't know.

25 Q. Any approximation? Are we talking here in the 1990s?

Vitale - Cross/Ms. Kedia

2963

1 A. I know he was on the -- he attended the meeting.

2 Q. When he attended this meeting that you're describing?

3 A. Yes.

4 Q. And was this meeting after, if you know, the murder
5 of Joey Scopo.

6 A. Was it after the murder of Joey Scopo? I think Joey
7 Scopo was killed in the early nineties, but I'm not
8 positive.

9 Q. Would it be fair to say that this meeting was after
10 the murder of Joey Scopo?

11 MR. BURETTA: Objection.

12 THE COURT: Sustained.

13 BY MS. KEDIA:

14 Q. Well, you're saying you're not positive when Joey
15 Scopo was killed. Right?

16 A. True.

17 MR. BURETTA: Objection.

18 BY MS. KEDIA:

19 Q. But when was this meeting in relation to that, if you
20 know?

21 MR. BURETTA: Objection.

22 BY MS. KEDIA:

23 Q. Before or after?

24 THE COURT: Sustained.

25 BY MS. KEDIA:

Vitale - Cross/Ms. Kedia

2964

1 Q. When you -- you were asked about this meeting with
2 Andrew Russo. You said that Andy Russo was there, and a
3 person by the name of Vinnie Aloï?

4 How how do you spell that, Aloï?

5 A. I have no idea.

6 Q. Well, just give us a phonetic.

7 MR. BURETTA: Objection.

8 THE COURT: Overruled.

9 A. A-L-O-I.

10 BY MS. KEDIA:

11 Q. And you said Junior Persico was not at this meeting.
12 Right?

13 A. Junior Persico was not at this meeting?

14 Q. Yes.

15 A. You mean Allie Boy Persico?

16 Q. Well, who is Junior Persico?

17 A. I don't know. You said it.

18 Q. You don't know anyone by that name?

19 A. Not know off the top of my head.

20 Q. Now was any Persico at this meeting?

21 A. No.

22 Q. Just Andy Russo, Vinnie Aloï and who else from the
23 Colombo family?

24 A. No one.

25 Q. And who else from your family?

Vitale - Cross/Ms. Kedia

2965

1 A. I believe it was me, and I don't know if it was TG or
2 George.

3 Q. Who is TG?

4 A. Anthony Graziano, was a captain with the Bonanno
5 family.

6 Q. And who is George?

7 A. Captain with the Bonanno family.

8 Q. And who else was there at this meeting?

9 A. Peter Gotti, Nickie Carraso, Joe DeFitti, Stevie
10 Carillo, Bernie T, and Nickie DeMeno.

11 Q. And who are the other people that you described, is
12 that Stevie Carillo?

13 A. The Lucchese family.

14 Q. And Bernie?

15 A. West Side -- it is the West Side family.

16 Q. When you say the West Side family --

17 A. The Genovese family.

18 Q. The Genovese family, you're talking about a person by
19 the name of Bernie Bullamos?

20 A. I didn't say his last name.

21 Q. You don't know his last name?

22 A. Now I do.

23 Q. Is that the same person you're talking about?

24 A. Yes.

25 Q. Does the name sound familiar to you now that it is

Vitale - Cross/Ms. Kedia

2966

1 being said?

2 A. Yes, uh-huh.

3 Q. And who else?

4 A. Mikey DeMeano.

5 Q. Who is Mikey DeMeano?

6 A. I believe it was the consiglieri of the West Side at
7 the time. Pete Gotti from the Gambinos and Nickie Carraso
8 from the Gambinos.

9 Q. Now, this is a meeting in which, I believe you said
10 that Andy Russo and Vinnie Aloï were told to go in a room
11 and try to work it out and come out?

12 A. That's true.

13 Q. And who told them to go in a room to try to work it
14 out?

15 A. Bernie did, Bernie was doing most of the talking.

16 Q. Bernie, meaning Bernie Bullamos from the West Side?

17 A. True.

18 Q. And what was his position?

19 A. At the time I think he was acting boss. The West
20 Side changes hats every week. They could be acting boss
21 today, next week they'll be consiglieri, the next week
22 they'll be -- be underboss. Whatever suits them that
23 week.

24 Q. Now, after -- and you said that he came out of the
25 room and said, *We can't work it out?*

Vitale - Cross/Ms. Kedia

2967

1 A. True.

2 Q. And what happens after that?

3 A. They left.

4 Q. How long was this meeting?

5 A. I don't recall.

6 Q. Was anything resolved whatsoever at this meeting?

7 A. Yes.

8 Q. What was resolved?

9 A. We all agreed to take five individuals each -- to
10 straighten out five individuals, and to give five
11 individuals to the Persico family. Not the Vinnie's Alois
12 side, but the Persico side.

13 Q. So after this meeting, there were still two sides, is
14 that your testimony?

15 A. When they walked in, it was two sides.

16 Q. And when they walked out?

17 A. As far as we were concerned, it was one side.

18 Q. So at this meeting, the rest of the families
19 recognized the Persico faction or the Andy Russo faction
20 as the faction that is going to win. Right?

21 A. True.

22 Q. And you actually decide at this point to give Andy
23 Russo five men?

24 A. True.

25 Q. Do you know whether Andy Russo was incarcerated again

Vitale - Cross/Ms. Kedia

2968

1 at some point in time?

2 A. After that meeting?

3 Q. Yes.

4 A. I think he went back to jail after that meeting, soon
5 after. But I'm not clear. I think he was doing time.

6 The last I heard I think he was incarcerated.

7 Q. So you said there was a period of time that he was in
8 jail before this meeting, too. Right?

9 A. Yes.

10 Q. So he comes out, there is a meeting and then he goes
11 back to jail at some point. Right?

12 A. Fair to say.

13 Q. Now -- and during the time that he is out -- during
14 the entirety of the time he was out, is it your
15 understanding that he was the acting boss of the Colombo
16 family? Or on the Persico side I should say. I
17 understand there was some dispute.

18 A. True.

19 Q. So he was the acting boss of the Persico side of the
20 family?

21 A. He was the street boss, yes.

22 Q. And there was a point that Andy Russo -- they wanted
23 Andy Russo -- this faction to become the boss. Right?

24 A. Sorry?

25 Q. There was a point where certain people in this

Vitale - Cross/Ms. Kedia

2969

1 faction wanted Andy Russo to actually become the boss of
2 the Colombo family?

3 A. How can he become the boss if Junior Persico was the
4 boss?

5 Q. Well, Mr. Vitale, you recall testifying in a trial
6 against Joseph Massino. Right?

7 A. True.

8 Q. And you said Massino -- when you testified against
9 him, was the boss of the Bonanno family. Right?

10 A. True.

11 Q. And that was back in 2004 when you testified against
12 him. Right?

13 A. True.

14 Q. And since then, Joseph Massino has also been a
15 cooperating witness also?

16 MR. BURETTA: Objection.

17 THE COURT: Sustained.

18 BY MS. KEDIA:

19 Q. Do you know what happened to Joseph Massino?

20 MR. BURETTA: Objection.

21 THE COURT: Come up.

22 (The following occurred at sidebar.)

23 THE COURT: I have a problem when you're
24 referring to the testimony of this witness at another
25 proceeding. Okay?

Vitale - Cross/Ms. Kedia

2970

1 MS. KEDIA: All right.

2 THE COURT: Now, the next question is, what
3 difference does it make if Joseph Massino became a
4 cooperator, or if he went into a seminary to become a
5 priest?

6 MS. KEDIA: Because I expect -- and I may even
7 want to call Joseph Massino -- that he will describe this
8 meeting with Mr. Persico very differently, if at all, that
9 any meeting with Mr. Persico occurred.

10 MR. BURETTA: Number 1, it is -- can I please
11 finish? Thank you.

12 Number 1, it is not relevant if he is
13 cooperating. His cooperation status is routinely excluded
14 in the trial, if he testified.

15 Part of the reason -- it is being excluded is
16 because he has the right to call Massino in. If they want
17 to call him, I welcome them to call him.

18 THE COURT: It is not relevant. You're barred
19 from mentioning it.

20 (The following occurred in open court.)

21 THE COURT: Objection sustained.

22 BY MS. KEDIA:

23 Q. Mr. Vitale, do you recall testifying under oath at
24 this proceeding against Mr. Massino?

25 A. Yes.

Vitale - Cross/Ms. Kedia

2971

1 Q. And do you recall --

2 MS. KEDIA: Page 5860, your Honor.

3 THE COURT: Of what transcript?

4 MS. KEDIA: It is MV-226.

5 THE COURT: Give me a moment, please.

6 226-A, 226-B?

7 MS. KEDIA: 226 -- I believe it is C, Judge.

8 THE COURT: And the page number again, please.

9 MS. KEDIA: It's page 5860, your Honor.

10 BY MS. KEDIA:

11 Q. Do you recall being asked these questions and giving
12 these answers?

13 "Question: You said you were at a discussion."

14 MR. BURETTA: Objection.

15 THE COURT: Wait. Give me a line.

16 MS. KEDIA: I'm sorry, line 3 I'm starting at,
17 Judge.

18 THE COURT: Let me read it.

19 Please approach.

20 (The following occurred at sidebar.)

21 THE COURT: This is introduced to establish
22 something that is inconsistent with his testimony here
23 today?

24 MS. KEDIA: He said he doesn't recall about
25 saying that there was another faction, and he assumed they

Vitale - Cross/Ms. Kedia

2972

1 wanted to become boss. So I'm asking him about this prior
2 statement.

3 MR. BURETTA: It doesn't refer to Andy Russo
4 becoming a boss. It talks about Junior Persico, that
5 there is another faction, Andy Russo, and they wanted to
6 become boss. It doesn't say Andy Russo wanted to become
7 boss. It says Andy Russo was backing him, meaning Junior
8 Persico.

9 MS. KEDIA: Judge, it was on and they didn't
10 want Junior Persico to be boss. There was another
11 faction, Andy Russo, and they wanted to become boss.
12 In this testimony --

13 MR. BURETTA: First of all, Andy Russo is a
14 different faction than Carmine Persico, and that he wanted
15 to become boss. And apparently he had people backing him.

16 THE COURT: I don't read it that way. But I
17 guess that is because I wasn't there. I don't know what
18 the purpose of now trying to bring this in through the
19 back door.

20 Is there any evidence as to whether Andy Russo
21 was part of another faction?

22 MS. KEDIA: There is evidence that he was the
23 acting boss at the time they said Mr. Persico.

24 THE COURT: This is -- what is this? Is that
25 what this is referring to? Okay. The objection is

Vitale - Cross/Ms. Kedia

2973

1 sustained.

2 (The following occurred in open court.)

3 THE COURT: Objection sustained.

4 BY MS. KEDIA:

5 Q. Mr. Vitale, after this situation is resolved in --
6 during this period where Andy Russo is out of prison and
7 is the acting boss of the Colombo family, are there other
8 meetings regarding the situation, the Colombo disputes?

9 MR. BURETTA: Object to the form.

10 THE COURT: Break it down, if you will

11 BY MS. KEDIA:

12 Q. You described a meeting when Andy Russo was present
13 and Vinnie Aloï was present. Right?

14 A. True.

15 Q. And a meeting occurred between or among the people
16 from all five families. Is that right?

17 A. True.

18 Q. And after this meeting, it was determined that the
19 Andy Russo faction would prevail. Right?

20 A. True.

21 Q. And that, in fact, that faction would be awarded five
22 new members. Right?

23 A. We also found new members.

24 Q. I'm sorry?

25 A. Every family.

Vitale - Cross/Ms. Kedia

2974

1 Q. Every family, including that family --

2 A. True.

3 Q. When you say *that family*, it would -- you said it
4 would be, was the Andy Russo faction, not the Vinnie Aloï
5 faction. Right?

6 A. I think you're saying the Andy Russo faction. Andy
7 Russo was representing the Persicos. So it is not his
8 faction.

9 Q. He was acting boss on behalf of the Persico faction?

10 A. He was a speaker.

11 Q. So the Persico faction was getting the five new
12 members. Right?

13 A. True.

14 Q. And the situation you described was resolved. Right?

15 A. As far as us in the room, we felt it would be
16 resolved.

17 Q. Now, after this point in time, were there other
18 commission meetings regarding the dispute in the
19 Colombo -- the prior dispute in the Colombo family?

20 A. There was only one commission meeting that I'm aware
21 of after that meeting.

22 Q. And when was that?

23 A. I believe it was the year 2000.

24 Q. The year 2000?

25 A. Approximately.

Vitale - Cross/Ms. Kedia

2975

1 Q. And who attended that commission meeting?

2 A. Mr. Massino, Little Larry from the Genovese family,
3 Joe Waverly from the Colombo family, Pete Gotti from the
4 Gambino family and Louie Bagel from the Lucchese family.
5 It was five individuals.

6 Q. And at this commission meeting, what was discussed?

7 A. What I was told?

8 Q. Well, what were you told?

9 A. I wasn't there.

10 Q. Yes. What were you told?

11 A. Mr. Massino said that each family was going to take
12 two new members for the next five years. That you didn't
13 have to replace the deaths.

14 You could just take two -- that anybody that was
15 indicted and sent away for any crime -- for drugs, could
16 not be straightened out for five years after he returned
17 home. And that you had to be full-blooded Italian to be
18 straightened out.

19 Your mother couldn't have been Irish and your
20 father Italian. You had to be full-blooded Italian before
21 you could be awarded that -- gain a member. That those
22 were the three key factors.

23 Q. So this wasn't another meeting regarding the Colombo
24 dispute. Right?

25 A. No. As far as we were concerned, that was resolved.

Vitale - Cross/Ms. Kedia

2976

1 Q. So after this one meeting where Andy Russo was
2 there -- the commission meeting where Andy Russo was
3 present, there were no other commission meetings where the
4 Colombo dispute was discussed. Is that right?

5 MR. BURETTA: Asked and answered.

6 THE COURT: Sustained.

7 BY MS. KEDIA:

8 Q. Now, Mr. Vitale, you testified that there was a point
9 in time where Mr. Massino was incarcerated, and I believe
10 you said that you were an -- were an additional captain
11 helping to run the family, and that Mr. Spero was official
12 consiglieri. Right?

13 A. True.

14 Q. In fact, during that period of time -- you're talking
15 about a time between the late eighties and the early
16 1990s.

17 A. I would say mid-eighties to '92.

18 Q. And so it is another year. Right?

19 And during that period of time, in fact, you
20 were actually running the family. Right?

21 A. No, I was helping Spero.

22 Q. Well, do you recall, at page 5410.

23 MS. KEDIA: Your Honor, 3500 SV-226.

24 BY MS. KEDIA:

25 Q. You said you recalled testifying --

Vitale - Cross/Ms. Kedia

2977

1 THE COURT: Give me a line.

2 BY MS. KEDIA:

3 Q. In a proceeding against Joseph Massino. Right?

4 A. A trial against Mr. Massino.

5 MS. KEDIA: 226-A, your Honor, 5410.

6 THE COURT: All right.

7 MR. BURETTA: I ask that the Court read 5411, as
8 well.

9 THE COURT: Yes.

10 MR. BURETTA: Thank you.

11 THE COURT: I have.

12 MS. KEDIA: Thank you, Judge.

13 BY MS. KEDIA:

14 Q. Do you recall being asked this question and giving
15 this answer.

16 "Question:" -- at line 10, "Were you the
17 official underboss of the Bonanno family?

18 "Answer: I was the official underboss of the
19 Bonanno family.

20 "Question: Were you ever responsible for
21 running the Bonanno family on the street?

22 "Answer: Yes, I was.

23 "Question: Over what time period had you been
24 responsible for running the Bonanno family?

25 "Answer: Late eighties until '93, until Joe

Vitale - Cross/Ms. Kedia

2978

1 came home.

2 "Question: What do you mean by that?

3 "Answer: Until our boss came home.

4 "Question: Where was he?

5 "Answer: Incarcerated.

6 "Question: Do you know where he was
7 incarcerated?

8 "Answer: Talladega, Alabama.

9 "Question: During the time that you were
10 responsible for running the Bonanno family, were you
11 responsible for doing it alone or with someone else?

12 "Answer: Anthony Spero.

13 "Question: Who was Anthony Spero?

14 "Answer: My consiglieri."

15 Do you recall being asked those questions and
16 giving those answers?

17 MR. BURETTA: Judge, there is an additional
18 question there.

19 MS. KEDIA: I'll read it.

20 BY MS. KEDIA:

21 Q. "Question: Do you know who appointed Anthony Spero
22 as consiglieri of the Bonanno family?

23 "Answer: Yes, Joe Massino."

24 Do you recall being asked those questions and
25 giving those answers?

Vitale - Cross/Ms. Kedia

2979

1 A. Yes.

2 Q. At the time that you were testifying against Joseph
3 Massino, you, in fact, testified under oath that you were
4 running the Bonanno family. Right?

5 MR. BURETTA: Objection.

6 THE COURT: Sustained.

7 BY MS. KEDIA:

8 Q. Well, when you referred to Mr. Spero as *my*
9 *consiglieri*, Mr. Vitale, what does that mean to you?

10 A. He is my consiglieri. He is my consiglieri. If I
11 was a soldier -- an associate, he is my consiglieri. He
12 belongs to the Bonanno family; he is mine.

13 Q. When you ran the family, you were responsible for
14 running the family on the street.

15 What did that mean?

16 MR. BURETTA: Objection.

17 THE COURT: Overruled.

18 A. With Anthony Spero and Joseph Massino. Mr. Spero is
19 its official consiglieri. I'm a captain. I do what I'm
20 told, when he tells me to do it. He is the senior
21 statesman. He is -- he is the only official person we
22 have home. I am just acting on his behalf and
23 Mr. Massino's behalf.

24 BY MS. KEDIA:

25 Q. Mr. Vitale, it was you who Mr. Massino made his

Vitale - Cross/Ms. Kedia

2980

1 second in command. Right?

2 MR. BURETTA: Objection, time frame.

3 BY MS. KEDIA:

4 Q. You were made Mr. Massino's second in command as soon
5 as he came out of jail. Right?

6 A. Approximately six months -- eight months after he
7 came home.

8 Q. Not Mr. Spero. Is that right?

9 A. He is my consiglieri.

10 Q. Right. And certainly a consiglieri could become the
11 underboss. Right?

12 A. Boss could do anything he wants.

13 Q. But, in fact, you were made second in command. Is
14 that right?

15 A. I wasn't made -- I remained the second in command.

16 Q. You remained the second in command?

17 A. Sure.

18 Q. Mr. Vitale, when you met Mr. Massino, what was his
19 position in the family?

20 A. Whose position?

21 Q. When you met Mr. Massino, what was his position in
22 the family?

23 A. I think he was an associate.

24 Q. And at some point he became -- and this was what
25 year, approximately?

Vitale - Cross/Ms. Kedia

2981

- 1 A. When did I first meet Mr. Massino?
- 2 Q. Yes.
- 3 A. I think 1955.
- 4 Q. 1955. And he was an associate in 1955?
- 5 A. No.
- 6 Q. When was it that he was an associate?
- 7 A. First I'm aware was 1970, 1971.
- 8 Q. And at -- and at some point, he becomes a made
- 9 member. Right?
- 10 A. True.
- 11 Q. And that was in approximately 1975?
- 12 A. I would say that's fair to say.
- 13 Q. And shortly after he becomes a made member, he orders
- 14 you to be involved in a murder. Right?
- 15 A. I don't know if Mr. Massino was made at the time he
- 16 killed Do-Do. I think he was a made member. Yes, I think
- 17 so.
- 18 Q. And at the time that you participated in the murder
- 19 of Do-Do, talking about the 1970s, correct?
- 20 A. Yes.
- 21 Q. You weren't a made member. Right?
- 22 A. No.
- 23 Q. Mr. Massino ordered you to participate in the murder.
- 24 Right?
- 25 A. I don't think he ordered me. I think he asked me for

Vitale - Cross/Ms. Kedia

2982

1 help. And I said, Yes.

2 Q. Well --

3 A. He didn't order me.

4 Q. Well, when you say he asked you for help, what you're
5 saying is that you could have said no?

6 A. Yes, I think I could have said no at that time.

7 Q. At that time did you consider Mr. Massino your boss?

8 A. I considered him my brother.

9 Q. Well, when you say you considered him your brother,
10 are you saying you didn't consider him your boss?

11 A. I think you're trying to say the word *boss*, as if he
12 was my boss. I was in love with the man. There is
13 nothing I wouldn't have done for him. I didn't look at
14 him -- I know he was my boss, but I looked at him in a
15 different light than the word *boss*.

16 Q. Well, Mr. Vitale, do you recall testifying in a prior
17 proceeding -- you testified in many, many prior
18 proceedings. Right?

19 A. Not many.

20 Q. Not many? Well, you testified at least five. Right?

21 A. Five, yes.

22 Q. That is not many to you?

23 A. No.

24 Q. Do you recall at --

25 MS. KEDIA: Page 2932 of 228, your Honor.

Vitale - Cross/Ms. Kedia

2983

1 THE COURT: 228-A?

2 MS. KEDIA: I believe it is 228-A, page 2932.

3 THE COURT: It is not 228-A.

4 MR. BURETTA: It's B, your Honor.

5 THE COURT: I have it. Go on, please.

6 BY MS. KEDIA:

7 Q. Starting at the bottom of 2931, line 25.

8 "Question: Mr. Massino was not a boss at the
9 time of this murder, was he, I believe 1976?

10 "Answer: No. Mr. Massino -- I looked at
11 Mr. Massino as my boss all my life. He asked me for help.
12 He thought he just asked me for help, and I said yes.
13 That's true.

14 "Question: Every time he asked you for help in
15 murder or killing someone, you felt it was your obligation
16 to participate in that murder. Is that what you're
17 telling us?

18 "Answer: After I became a Goodfellow, yes."

19 Do you recall saying that Mr. Massino -- you
20 looked at Mr. Massino as your boss all your life?

21 A. I looked at him as my boss, as to look at him as my
22 brother.

23 Q. Well, at the time that you participated in this first
24 murder, you said that, in fact, he didn't order you to
25 commit it. Right?

Vitale - Cross/Ms. Kedia

2984

1 A. No, not the way you say *order*. He asked me --

2 Q. And what specifically did he ask you?

3 A. He asked me to clean up the location that the murder
4 was going to take place.

5 Q. Now, at this point in time, there was no permission
6 to murder this person Do-Do from the administration.
7 Right?

8 A. I have no way of knowing that. He did with a Colombo
9 member.

10 Q. When you say you have no way of knowing that, do you
11 recall testifying at a prior proceeding, page --

12 MS. KEDIA: SV-232, your Honor, I believe it is
13 232-A at page 3449, line 6.

14 BY MS. KEDIA:

15 Q. "Question: Did you get permission from the boss of
16 the Bonanno crime family before you participated in th e
17 murder of did Do-Do?

18 "Answer: No."

19 Do you recall being asked that question and
20 giving that answer?

21 MR. BURETTA: Objection. Move to strike.

22 THE COURT: Sustained. The jury is instructed
23 to disregard it.

24 BY MS. KEDIA:

25 Q. Well, Mr. Vitale, you certainly didn't get permission

Vitale - Cross/Ms. Kedia

2985

1 from the boss of the Bonnano family. Right?

2 A. I didn't know the boss.

3 Q. You didn't even know him?

4 A. I couldn't walk up to a boss and ask him, *Am I*
5 *supposed to participate in this murder?* Being an
6 associate, do you want me to go up to a boss and ask the
7 boss, *Do you want me to kill this guy?*

8 Q. You would never do that. Right?

9 A. Not as an associate.

10 Q. And certainly not as an associate. Even as a made
11 member would you have done that?

12 MR. BURETTA: Objection.

13 THE COURT: Sustained.

14 BY MS. KEDIA:

15 Q. Well, did you ever do that when you were simply a
16 soldier in the family?

17 A. I never questioned my orders.

18 Q. From anyone?

19 A. From any of my superiors.

20 Q. From any of your superiors. And your superiors, when
21 you say that, generally it was always Mr. Massino giving
22 the orders. Right?

23 A. Anthony Spero.

24 Q. You never questioned an order from Anthony Spero,
25 from Mr. Massino. Is that your testimony?

Vitale - Cross/Ms. Kedia

2986

1 A. No.

2 Q. And, in fact, when you said that you didn't -- you
3 didn't know whether or not somebody else had actually
4 gotten permission. Right?

5 A. You mean the two individuals that did the actual
6 shooting?

7 Q. Whether anyone actually got permission from the
8 administration of the family to kill Do-Do?

9 MR. BURETTA: Asked and answered.

10 BY MS. KEDIA:

11 Q. Did you know?

12 THE COURT: Sustained.

13 BY MS. KEDIA:

14 Q. Well, Mr. Vitale, you have participated now in
15 11 murders. Right?

16 A. True.

17 MR. BURETTA: Objection, asked and answer
18 repeatedly.

19 BY MS. KEDIA:

20 Q. You have been, while were you participating in
21 murders, you were an associate, you were a soldier, you
22 were a captain, you were an underboss?

23 A. True.

24 Q. And during any of those times, and any of those
25 positions, when you were ordered to commit those crimes,

Vitale - Cross/Ms. Kedia

2987

1 did you ever ask where the order came from?

2 A. It came from the guy who was giving it to me.

3 Q. When you were an associate and Mr. Massino asked you
4 to participate in the murder of Do-Do, did you ever say to
5 Mr. Massino, *Where did this order come from?*

6 MR. BURETTA: Objection.

7 THE COURT: Sustained.

8 BY MS. KEDIA:

9 Q. Did you ever say, *Mr. Massino, do you have an order*
10 *to do this?*

11 A. I never asked him.

12 Q. Did you ask any questions of that nature during any
13 of your participation in any of the murders?

14 MR. BURETTA: Objection, asked and answered.

15 THE COURT: Overruled, one last time.

16 A. Organized criminal members don't ask. If they told
17 me to attack, you attack. You don't ask why.

18 BY MS. KEDIA:

19 Q. Now Mr. Vitale, when you become an organized crime
20 member, you can't actually meet another organized crime
21 member without proper introduction. Right?

22 A. True.

23 Q. And would you ever as an associate or as a soldier in
24 the family during the time that you occupied both of those
25 positions, ever have gone up to the underboss of the

Vitale - Cross/Ms. Kedia

2988

1 family and introduced yourself?

2 MR. BURETTA: Objection, collateral.

3 THE COURT: It is collateral. Can you go
4 forward on this with another question?

5 MS. KEDIA: Yes, Judge.

6 THE COURT: All right. I'll permit it.

7 A. The question please?

8 BY MS. KEDIA:

9 Q. Would you, when you were an associate or a soldier in
10 the family, ever have gone up to a person that occupied
11 the position of underboss and introduced yourself?

12 A. As a made member?

13 Q. Yes.

14 A. No.

15 Q. Or as someone affiliated with organized crime?

16 A. Not that I recall.

17 Q. And when you say *as a made member*, even as AN
18 associate, you wouldn't have done that. Right?

19 A. As an associate, I would not approach an underboss
20 and say, *Well, I'm with Joe Massino*.

21 Q. Now, is it the rules of the Mafia, I think you
22 testified earlier that, in fact, rules are broken all the
23 time.

24 A. I didn't hear you.

25 Q. That rules are broken all the time. Right?

Vitale - Cross/Ms. Kedia

2989

1 A. That is fair to say.

2 Q. And you were kind of a stickler for rules. Right?

3 Is that fair to say?

4 A. In my eyes. In somebody else's eyes, maybe no.

5 Q. And, in fact, you were someone who wouldn't have been

6 discussing crimes that you participated in with other

7 people -- with people who weren't involved. Right?

8 A. A murder?

9 Q. Yes, a murder.

10 A. I wouldn't discuss a murder with someone that -- I

11 wouldn't discuss a murder with a person that was there

12 with me.

13 Q. Even with someone who was involved?

14 A. At a later date?

15 Q. Yes.

16 A. No way.

17 Q. Now, there are people certainly at whatever rank --

18 associate, soldier, that don't follow the rules. Right?

19 A. True.

20 Q. And, in fact, there are certain people that just look

21 out for themselves. Right?

22 A. Well, I think everybody is looking out for

23 themselves.

24 Q. Every person involved?

25 A. I would say so.

Vitale - Cross/Ms. Kedia

2990

1 Q. And as a member of organized crime, there are many
2 times that you're lied to and you're taken advantage of.
3 Right?

4 A. There are times.

5 Q. And there are times when people use their position in
6 the family for their own personal vendetta. Right?

7 A. For their own personal vendetta?

8 Q. Yes.

9 A. As to kill someone?

10 Q. As to kill someone or to commit some other crime.

11 A. You're not supposed to.

12 Q. When you say *you're not supposed to*, are there times
13 that you know of that these things occur?

14 A. Well, what would I tell my boss? I'm going to
15 fabricate a story about this individual, that I want him
16 killed without my boss checking on it?

17 Q. Well, would you tell your boss that you wanted to
18 kill an individual, and you didn't want to go get
19 permission?

20 MR. BURETTA: Objection.

21 THE COURT: Sustained.

22 (Continued on the following page.)

23

24

25

Vitale - Cross/Kedia

2991

1 BY MS. KEDIA: (cont'd)

2 Q You certainly know of situations where members of
3 organized crime had killed people without permission of
4 the boss, right?

5 A Repeat the question.

6 Q You are aware of situations where members of
7 organized crime have killed people without the permission
8 of the boss, right?

9 A It's happened.

10 Q In fact, you have testified against such a person,
11 right?

12 A I may have.

13 Q Well, when you say you may have, you have testified
14 against how many individuals?

15 MR. BURETTA: Objection.

16 THE COURT: Overruled.

17 A Numerous.

18 Q Numerous?

19 A I don't know the number.

20 Q Were there more than five?

21 A Five individuals or five cases?

22 Q Five cases?

23 A Five cases.

24 Q Do you recall testifying on two separate occasions
25 against a person by the name of Vincent Basciano?

Vitale - Cross/Kedia

2992

1 A I have.

2 Q Do you recall testifying about murders that he
3 committed without the approval of Joe Massino?

4 A He did.

5 Q And he was someone in the Bonanno family, right?

6 A He lied to someone?

7 Q He was a person in the Bonanno family, right?

8 A That he killed?

9 Q No. He himself, Basciano?

10 A True.

11 Q Was he a member of the Bonanno family?

12 A He told Massino after the fact.

13 Q Meaning that he killed somebody without Mr. Massino's
14 permission, without having gone to Mr. Massino, right?

15 A That's true.

16 Q And you are saying that later, Mr. Massino learned
17 about it, right?

18 A He went and told Mr. Massino after the fact.

19 Q And in fact, Mr. Massino was pretty angry at Mr.
20 Basciano for having committed murders without his
21 permission, right?

22 MR. BURETTA: Objection.

23 THE COURT: Sustained.

24 Q Was Mr. Massino angry at Mr. Basciano?

25 A Yes.

Vitale - Cross/Kedia

2993

1 Q Why is that?

2 A Because he fabricated a story saying it had to be
3 done right then and there. He used other members from
4 organized crime to help him do it. It's not that it
5 couldn't have waited another week or two or whatever until
6 he got to Mr. Massino. He took it upon himself to do what
7 he wanted to do.

8 Q That's what angered Mr. Massino?

9 A Sorry?

10 Q That's what angered Mr. Massino?

11 A True.

12 Q What did Mr. Massino do to Mr. Basciano once he found
13 out?

14 A I think he just yelled at him, scolded him. I don't
15 -- he didn't give him no bodily harm or throw him out of
16 the family. He just told him never to do it again.

17 Q In fact, after one of the murders that he committed
18 without Mr. Massino's permission, not only did Mr. Massino
19 not physically retaliate in any way, he elevated him to
20 captain, right?

21 A I think a couple of years later he made him an
22 official captain. He did elevate him.

23 Q Now, Mr. Vitale, when something like this happens,
24 like Mr. Basciano commits a murder without permission,
25 it's entirely up to the boss what the punishment is,

Vitale - Cross/Kedia

2994

1 right?

2 A True.

3 Q And that's if and when the boss ever even finds out
4 what happened, right?

5 A It's the discretion of the boss.

6 Q You said that Mr. Basciano went and told Mr. Massino
7 about what he had done, right?

8 A True.

9 Q So prior to that, Mr. Massino didn't even have any
10 knowledge, right?

11 A True.

12 Q Now, there is a situation in particular that I will
13 ask you about where a boss was killed without the
14 agreement of even -- obviously, the boss can't be killed
15 with the permission of the boss, right?

16 A No; it would be hard.

17 Q If the boss is killed, under the rules of La Cosa
18 Nostra, you have to get permission from the Commission?

19 A That's true.

20 Q If it's to be a sanctioned event?

21 A That's also true.

22 Q There have been bosses killed without the agreement
23 of the Commission?

24 A One that I know of.

25 Q You are talking about which one?

Vitale - Cross/Kedia

2995

1 A An official boss?

2 Q Yes.

3 A I think he is the only boss that I know that was
4 killed.

5 Q Who was that?

6 A Paul Castellano.

7 Q Do you know someone who was not an official boss that
8 was killed without the permission?

9 A No.

10 Q Paul Castellano you said was killed without the
11 Commission having approved it, right?

12 A True.

13 Q He was killed by a person named John Gotti, right?

14 A That's true.

15 Q John Gotti then became the boss?

16 A That's true.

17 Q Now, in organized crime, you are aware of something
18 called a sneak murder, right?

19 A A what?

20 Q A sneak murder, right?

21 A Yes.

22 Q A sneak murder is if a person just wants to go out
23 and kill another individual on their own and maybe never
24 even tell anybody about it, right?

25 A True.

Vitale - Cross/Kedia

2996

1 Q There are occasions when someone commits a sneak
2 murder and then actually starts an investigation to
3 pretend that the murder didn't come from them, right?

4 A No. Why would the family start an investigation if
5 they don't know who killed the guy? You are talking about
6 the guy who sneaked him started an investigation?

7 Q Yes.

8 A I guess you could do that.

9 Q Do you recall testifying that, SV 228, at a prior
10 proceeding --

11 THE COURT: What letter?

12 MS. KEDIA: I believe 228 B but I need to check.
13 Page 2634 -- 26:38, line 14.

14 Q Question: Are you familiar with what is called
15 a sneak or committing a murder on the sneak?

16 Answer: Yes.

17 Question: What is that?

18 Answer: To commit a murder on the sneak is if
19 an individual wanted to kill another individual, he would
20 just do it and then start an investigation and say that
21 didn't come from where, me, I don't know where it came
22 from but it didn't come from me.

23 Do you recall being asked those questions and
24 giving those answers?

25 A I might have said that but that's wrong.

Vitale - Cross/Kedia

2997

1 Q But that's wrong?

2 A If I snuck an individual, why would I start an
3 investigation unless I was asked: Do you know where it
4 came from? I would say no.

5 Q Mr. Vitale, when you gave that answer, you were under
6 oath like you are here now?

7 A True.

8 Q When you gave that answer and you say it was wrong,
9 why would you say that about a sneak murder if it wasn't
10 true?

11 A What wasn't true?

12 Q If what you said is wrong.

13 A It wasn't -- I'm not saying it wasn't true. I'm
14 saying if I did say that, that's wrong. If I snuck an
15 individual, if I happened to sneak Mr. Massino, I'm not
16 going to start my own investigation on me. I might say if
17 they came to me: I don't know where it came from, how
18 would I know.

19 Q Did you ever have occasion to do that?

20 A To sneak an individual?

21 Q Yes.

22 A Never.

23 Q Have you heard of a lot of sneak murders?

24 A In our family?

25 Q Yes.

Vitale - Cross/Kedia

2998

1 A The only one I heard of was Sally Horse.

2 Q Well, when you say that the only one you heard of was
3 Sally Horse, you just testified about Vincent Basciano
4 committing a sneak murder, right?

5 A True; that was a sneak murder.

6 Q So how many --

7 A Well, no, I don't know that it was a sneak murder.
8 He killed -- a murder and then went and reported it. If
9 he didn't report it, then that would be a sneak murder.

10 Q So eventually if it got reported, that doesn't fall
11 within your definition of a sneak?

12 A What did you say?

13 Q If it eventually got reported, that doesn't fall
14 within your definition of a sneak?

15 A No. He killed -- he killed him and put it on record
16 after the fact because he used two individuals who could
17 go and say that he did it. A sneak murder is, I would
18 assume, is just one on one.

19 Q You talked about a person by the name of Sally the
20 Horse right now?

21 A Yes.

22 Q This is an individual you knew to be in the Bonanno
23 family?

24 A He was a made member.

25 Q He was a made member?

Vitale - Cross/Kedia

2999

1 A Yes, ma'am.

2 Q When was he made?

3 A I don't recall.

4 Q When is it he was killed?

5 A What?

6 Q When is it he was killed?

7 A I would say early '90s. I'm not sure. I think Mr.
8 Massino was home at the time.

9 Q This person, Sally Horse, was killed and to this day
10 no one really knows what happened to him, right?

11 A No.

12 Q That's despite the fact that Mr. Massino, you say,
13 conducted an investigation, right?

14 A He did.

15 Q When you say "conducted an investigation," what
16 specifically is it that Mr. Massino did?

17 A I think he inquired from all his captains. He
18 inquired from a guy named Junior Chili who was under Sally
19 the Horse -- that was above Sally the Horse and asked if
20 this Sally the Horse had any enemies or problems we should
21 know of.

22 Q Above Sally the Horse, meaning he was his captain?

23 A Junior was the captain.

24 Q Mr. Massino asked Sally the Horse's captain if he
25 knew what happened to him?

Vitale - Cross/Kedia

3000

1 A He asked all the captains basically.

2 Q Were all of the made members asked by Mr. Massino?

3 A We asked -- he asked the captains to ask your man
4 whether they were asked; I don't know.

5 Q You can't say one way or the other?

6 A No, I can't answer for everyone.

7 Q Apart from Mr. Massino asking his captains, what else
8 did he do?

9 A Not much you can do.

10 Q What does that mean?

11 A What is he going to do, ask law enforcement?

12 Q Of course not, right?

13 A Right.

14 Q This is an individual who you knew for certain was
15 murdered, right?

16 A Yeah, he was murdered at his kitchen table.

17 Q His body was there?

18 A I didn't see it.

19 Q Somebody saw it, right, it was found?

20 A They found it there.

21 Q There was no question that in fact on whatever date
22 it was he was killed, right?

23 A Right.

24 Q There was money and I believe you said his shylock
25 book --

Vitale - Cross/Kedia

3001

1 A Yes.

2 Q -- in front of him?

3 A Yes.

4 Q Did the fact that this money and shylock book were in
5 front of him, did that suggest to you in any way it was
6 someone that he had a loan-sharking problem with?

7 MR. BURETTA: Objection.

8 THE COURT: Sustained.

9 Q Did that suggest anything to you in any way?

10 THE COURT: Sustained.

11 MR. BURETTA: Judge, can we approach briefly?

12 THE COURT: Come on up.

13 (Continued on the next page.)

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Sidebar

3002

1 (Sidebar.)

2 MR. BURETTA: I'm just inquiring as to how much
3 longer Ms. Kedia -- I would assume, I mean, I know your
4 Honor indicated two and two. I don't know if Mr. LaRusso,
5 frankly, has that much to ask because he doesn't really
6 talk about his client in any meaningful way; I don't know
7 that. I have been trying not to -- I have had to object
8 to what is blatantly not impeachment but --

9 THE COURT: How much longer do you have?

10 MS. KEDIA: I have as much time as I'm going to
11 be given, I think.

12 THE COURT: My question is based on what you
13 have there now, you can conclude in the next 40 minutes?

14 MS. KEDIA: I can't, Judge. And Mr. LaRusso is
15 willing to give me some of the time that your Honor is
16 affording him.

17 THE COURT: How much time do you need, Mr.
18 LaRusso?

19 MR. LaRUSSO: The way this is going, Judge, in
20 terms of time limitation, probably relatively short
21 because I know Ms. Kedia has too many areas to cover.

22 THE COURT: 15 minutes?

23 MR. LaRUSSO: If she covers the areas that we
24 think would be covered, maybe ten, 15 minutes.

25 THE COURT: So Ms. Kedia is going to be done.

Sidebar

3003

1 MR. LaRUSSO: I'm pretty sure based on
2 everything covered now we can cover the areas. I probably
3 have very little time. I can tell you, frankly, it's
4 probably just dealing with his two arrests and what his
5 bail conditions are, the way things are going.

6 THE COURT: Ms. Kedia, wrap it up and I will
7 save the last 15 minutes for Mr. LaRusso.

8 MS. KEDIA: Judge, what Mr. LaRusso is saying is
9 if I'm allowed to cover these areas, he will take 15
10 minutes, if not, he will need to question him.

11 MR. LaRUSSO: My point is this witness obviously
12 has more testimony against Mr. Persico than my client so I
13 think the major concern here is we cover all the areas of
14 credibility.

15 THE COURT: I would focus only on the important
16 ones now.

17 MR. LaRUSSO: The question is how many areas
18 have to be covered legitimately.

19 THE COURT: How many more areas do you have?

20 MS. KEDIA: I still have several more areas.

21 MR. BURETTA: Judge, I didn't come up to reargue
22 the time limits.

23 THE COURT: You are aware of the time limits.

24 MS. KEDIA: Judge, I don't think that literally
25 a time limit is appropriate if in fact I have areas that

Sidebar

3004

1 I'm telling the Court I really do need to cover.

2 THE COURT: Focus on the most important one now
3 and we can go on from there.

4 (Sidebar concluded.)

5 (Continued on the next page.)

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Vitale - Cross/Kedia

3005

1 (In open court.)

2 BY MS. KEDIA:

3 Q Mr. Vitale, during the time that Mr. Massino was the
4 boss of the family, of your family, there were a number of
5 administration changes, right?

6 A That we called for our own family?

7 Q Yes.

8 A I don't believe so.

9 Q You don't believe so?

10 A No.

11 Q Well, do you recall that when Mr. Spero was charged
12 -- was arrested, that someone else was set to act in his
13 place?

14 A To work in conjunction with me?

15 Q To work in conjunction with you.

16 A Yes.

17 Q That is because he had been arrested, right?

18 A Yes.

19 Q And he didn't have the ability to do what he had the
20 ability to do previously, right?

21 A True.

22 Q So Mr. Massino -- is it Mr. Massino that appointed
23 someone to act on his behalf?

24 A On Spero's behalf, yes.

25 Q And at that point in time, you and -- who was that

Vitale - Cross/Kedia

3006

1 that was appointed to act on Mr. Spero's behalf?

2 A I think the first individual might have been Big
3 Louie.

4 Q Big Louie, also called Louie Ha Ha, is that that
5 person?

6 A No. I think it was Louie Tartaglione or Louie Ha Ha
7 in the very beginning.

8 Q And it was you and Louie Ha Ha that were acting on a
9 committee so to speak?

10 A True.

11 Q And you actually held a position of official
12 underboss at that point in time, right?

13 A Yes.

14 Q And Mr. Ha Ha held what official position?

15 A Captain.

16 Q This is a person Louie Ha Ha by the last name of
17 Attanasio, right?

18 A Yes.

19 Q And when he was official captain, was he called the
20 acting consigliere or was he just called acting on a
21 committee?

22 A Acting on a committee.

23 Q Then he was arrested, right?

24 A Yes.

25 Q And then someone else was appointed to act on his

Vitale - Cross/Kedia

3007

1 behalf, right?

2 A Yes.

3 Q Because now he was no longer in the position to do
4 what he would have been doing, right?

5 A True.

6 Q And that person was Big Louie?

7 A Yes.

8 Q And now it was you and Big Louie in charge of the
9 family, right?

10 A Yes.

11 Q And then Big Louie was arrested, right?

12 A True.

13 Q And now he was no longer running the family, right?

14 A True.

15 Q And then it was you and Frank Coppa, right?

16 A No, I think it was me and George.

17 Q You and George?

18 A George Sasha.

19 Q Then George Sasha was killed, right?

20 A Yes.

21 Q George Sasha was one of the people you were involved
22 in killing, right?

23 A Yes.

24 Q Let me ask you: Anthony Spero is a person you
25 described was assisting you in running the family while

Vitale - Cross/Kedia

3008

1 Mr. Massino was in jail, right?

2 A Yes.

3 Q And he was the official consigliere for what period
4 of time?

5 A Late '80s.

6 Q Until when?

7 A Until he was incarcerated.

8 Q When you say "until he was incarcerated," there were
9 two separate occasions on which Mr. Spero was
10 incarcerated, right?

11 A Yes.

12 Q And he was first arrested in 1994?

13 A I believe.

14 Q And then there was this series of other people acting
15 in his place and they kept getting arrested, right?

16 A Yes.

17 Q Then Mr. Spero was released from prison?

18 A Yes.

19 Q Around 1996?

20 A Yes.

21 Q And was then arrested again in May of 1999, right?

22 A I don't know when he was exactly arrested but he was
23 arrested again.

24 Q Is that a fair approximation of when he was arrested?
25 Do you recall what year?

Vitale - Cross/Kedia

3009

1 A I don't recall the year.

2 Q Now, once -- there was a period of time where Mr.
3 Spero was actually out on the street though, right, in
4 between his two incarceration periods?

5 A Right, but I don't think he was able to function
6 because he was under parole.

7 Q Because he was on parole?

8 A Yes.

9 Q What does that mean, being on parole?

10 A That you can't socialize with -- you can't socialize
11 or be seen with organized crime members, you could be
12 violated.

13 Q And so that's the reason that after -- or even in
14 between his two periods of incarceration, he wasn't
15 actually running the family?

16 A Mr. Massino was home during that period of time. Mr.
17 Massino was running the family.

18 Q I mean acting as part of the administration?

19 A He was not participating.

20 Q Now, after Mr. Massino came home from jail, there was
21 also a period of time where he appointed an acting boss,
22 right?

23 A Did Mr. Massino appoint an acting boss?

24 Q Yes.

25 A No. I don't think so.

Vitale - Cross/Kedia

3010

1 Q Mr. Massino goes to jail in what time?

2 A Mid '80s. Comes home October -- November of '92.

3 Q Then he actually was indicted again?

4 A He was indicted after '92?

5 Q Yes.

6 A In '03; that's right.

7 Q Between that period of time, he was out and he was
8 the official boss, is that right?

9 A Yes.

10 Q You were out and you were the official underboss,
11 right?

12 A Yes.

13 Q And during that entire period of time, you were the
14 person actually assisting Mr. Massino as his second in
15 command?

16 A True.

17 Q Now, while Mr. Massino was incarcerated, I think you
18 testified that you were involved in 11 murders in which
19 you got permission, is that right?

20 A What did you say?

21 Q You were involved in 11 murders for which you got
22 permission?

23 A Yes.

24 Q There were actually three murders that you and Mr.
25 Spero decided to commit without consulting Mr. Massino,

Vitale - Cross/Kedia

3011

1 right?

2 A That's true.

3 Q So when you say that you got permission, you didn't
4 go to Mr. Massino about those three?

5 A No; I went to Anthony Spero.

6 Q You and Anthony Spero decided among yourselves,
7 right?

8 A Yes.

9 Q And those three murders eventually you told Mr.
10 Massino about?

11 A He was aware of them when he came home.

12 Q So during his entire period of incarceration, you
13 didn't have a discussion with him about it?

14 A No.

15 Q Now, these murders that you have been involved in,
16 Mr. Vitale, have all been pretty carefully planned, right?

17 A Yes.

18 Q I think the first one you testified that you actually
19 were brought in to be the person who cleaned it up, is
20 that right?

21 A Yes.

22 Q And on the next one, that was a murder of three
23 captains together, right?

24 A True.

25 Q There were any number of people involved in those

Vitale - Cross/Kedia

3012

1 three murders, right?

2 A There were many.

3 Q Now, this three captains' murder, do you remember the
4 date, it was May 5, your son's birthday?

5 A Yes.

6 MR. BURETTA: Objection. It's all cumulative.

7 THE COURT: Yes.

8 Q During the murder of the three captains, there was a
9 person by the name of Sally Figueroa who was the acting
10 boss, right?

11 A Sally Ferrugi.

12 Q How do you say it?

13 A Ferrugi.

14 Q Sally Ferrugi was the acting boss of the Bonanno
15 family, right?

16 A True.

17 Q And who was Sally Ferrugi?

18 A The acting boss of the Bonanno family.

19 Q Who was he? Where did he come from?

20 A What do you mean?

21 Q Did you know him before these three murders?

22 A Just sat with them once or twice; hello/good-bye.

23 Q How was it that he came to hold the position of
24 acting boss?

25 A They used him -- Mr. Massino and Phil Rastelli used

Vitale - Cross/Kedia

3013

1 him as gopher. He didn't really call the shots. Mr.

2 Massino was calling the shots with George. He was just a
3 figurehead, just somebody to put in a seat. He had no
4 actual power.

5 Q Meaning even though he held the title of acting boss,
6 he didn't actually do anything?

7 A No, he didn't do anything.

8 Q And why is it that he was given the position of
9 acting boss then?

10 A I have no idea.

11 Q Well, was it to keep harmony in the family?

12 A Sorry?

13 Q Was it to keep harmony in the family?

14 A The Bonanno family was divided in two, we had seven
15 Italian men we called zips that were captains. And Mr.
16 Massino and Sonny Black's side you had eight American
17 captains. He was a mixture of both. So they more or less
18 put him there to keep harmony as a figurehead, as a person
19 but not -- he really had no power.

20 Q And when he was the figurehead, you said it was
21 really Mr. Massino running the show?

22 A Massino was in touch with Mr. Rastelli.

23 Q Where was Mr. Rastelli?

24 A He was incarcerated.

25 Q So Mr. Massino was really the person who was the

Vitale - Cross/Kedia

3014

1 street boss, is that right?

2 A That's fair to say.

3 Q He is the one who ordered the murder of the three
4 captains?

5 A He is the one who went and got the approval.

6 Q Well, when you say "got the approval," you mean got
7 the approval from whom?

8 A From Junior Persico and from another boss, I think it
9 was Paul, Paul Castellano and Junior Persico.

10 Q And you are talking about bosses of other families,
11 is that right?

12 A Sorry?

13 Q You are talking about bosses of other families, is
14 that right?

15 A Yes.

16 Q And Mr. Massino -- Mr. Rastelli was the official boss
17 and Mr. Figueroa (sic) was the acting boss during that
18 time, is that so?

19 A True.

20 Q Why was it that Mr. Massino needed to go to other
21 families to get permission to murder three captains in his
22 own family?

23 A Because he felt the three captains were being backed
24 by the Chin from the west side and he figured he wanted to
25 be sure he was right. He didn't want to jeopardize a war

Vitale - Cross/Kedia

3015

1 with the west side.

2 Q So meaning in that case, the official boss or the
3 acting boss couldn't simply have just ordered the murders
4 and it'd be done and nobody cares?

5 A I'm sure he could have did it that way, it's our own
6 family, whatever happens in our family stays in our
7 family. We can't tell you how to run your family or you
8 tell us how to run our family. He felt he was on shaky
9 ground maybe and he wanted somebody's permission or
10 guidance.

11 Q And he felt this because there was dissent and
12 dispute among the family?

13 A Because of why?

14 Q There was dissent, there had been dissent in the
15 Bonanno family?

16 A A split was starting to happen, yes.

17 Q So in that case, he thought he better go talk to some
18 other people, is that right?

19 A Asked for their guidance.

20 Q Now, Mr. Persico at the time that you knew him, did
21 you know him to be living in Florida?

22 A I didn't hear you.

23 Q Did you know that Mr. Persico was living in Florida
24 in the 1990s?

25 A I heard that.

Vitale - Cross/Kedia

3016

1 Q And Billy Cutolo, you said you know him, right?

2 A Who?

3 Q Billy Cutolo, Wild Bill.

4 A I met him once, twice. I met him at his son's
5 wedding.

6 Q You met him where?

7 A At his son's wedding.

8 Q You went to his son's wedding?

9 A I did.

10 Q His son by the same name?

11 A I don't know.

12 Q Did you know that the son's name was Bill?

13 A Could be.

14 Q How often did you meet the son?

15 A Sorry?

16 Q How often did you meet the son?

17 A I didn't. Did I say I met the son? I never met the
18 son.

19 Q Did you not meet him at his wedding?

20 A No.

21 Q You went to his wedding but you weren't introduced?

22 A No; we walked out.

23 Q What year was that?

24 A Mr. Massino wasn't home. I believe it was in the
25 late '80s, could have been. I know Mr. Massino wasn't

Vitale - Cross/Kedia

3017

1 home at the time.

2 Q Was that the first occasion on which you met Wild
3 Bill or had you met him previously?

4 A I don't recall.

5 Q Well, how many times do you recall having met Wild
6 Bill?

7 A Twice.

8 Q What were the two occasions, once at this wedding?

9 A And once in Sheepshead Bay.

10 Q Once in Sheepshead Bay. What was that about?

11 A We were walking down a block and he came out of a
12 restaurant with an individual name Joe C.

13 Q Was that occasion before or after the wedding?

14 A That we met him at Sheepshead Bay?

15 Q Yes.

16 A It was way after the wedding.

17 Q It was way after the wedding?

18 A Yes.

19 Q Now, during the 1990s, did you understand Wild Bill
20 -- after this dispute passed, did you understand Wild Bill
21 to be a person in New York kind of in charge of things?

22 A Did I understand Wild Bill to be in charge? Is that
23 the question?

24 Q Yes.

25 A No. I wasn't told he was in charge of anything.

Vitale - Cross/Kedia

3018

1 Q No, you weren't?

2 MR. BURETTA: Objection.

3 THE COURT: Sustained.

4 Q What did you understand him to be doing for the
5 Colombo family?

6 THE COURT: At what point in time?

7 MS. KEDIA: In the 1990s.

8 A I don't know.

9 Q You are not sure what he was doing at all, what his
10 position was?

11 MR. BURETTA: Objection. Those are two
12 different questions.

13 Q What did you understand him to be doing for the
14 Colombo family?

15 A I don't know what he did for the Colombo family.

16 Q You had no interaction with him in terms of criminal
17 activity at all?

18 A No.

19 Q And you had no other interaction with him outside of
20 any criminal activity, is that right?

21 A No.

22 Q Similarly with Mr. Persico, you certainly had no
23 interaction with him?

24 A Which Persico?

25 Q This Mr. Persico (indicating).

Vitale - Cross/Kedia

3019

1 A No.

2 Q Now, Mr. Vitale, there came a time that you testified
3 that Mr. Massino went on the lam, right?

4 A Yes.

5 Q And he went on the lam shortly after the murder of
6 the three captains?

7 A Yes.

8 Q And why is it that Mr. Massino went on the lam?

9 A Because he got from an independent source that he was
10 going to be indicted with a Bonanno round-up and he didn't
11 want to go to trial with these other individuals that
12 stemmed from Donnie Brasco so he decided to go on the lam.

13 Q How long before he decided to go on the lam was this
14 planned?

15 A He left immediately.

16 Q Well, meaning that he decided to go and he went?

17 A We were out to dinner that night with the wives, he
18 called me up, says: Come pick me up. I went to pick him
19 up and he said: We gotta get out of here, I heard I'm
20 going to be indicted. I drove him to an apartment on
21 Ocean Parkway.

22 Q There was no prior plan discussed in the months
23 before?

24 A No.

25 Q To your knowledge, had he discussed any intention to

Vitale - Cross/Kedia

3020

1 leave prior to having this discussion with you with
2 anyone?

3 A Not that I'm aware of.

4 Q Now, Mr. Massino was gone for a period of more than
5 two years, right?

6 A True.

7 Q During this time, law enforcement was looking for
8 him, right?

9 A Yes and no.

10 Q What does that mean, "yes and no"?

11 A They weren't giving us a full court press the way
12 they should have. He always felt they didn't want him
13 until the case was over. They weren't following me every
14 day. They weren't bugging my car. I could go see him
15 like if I was going to see one of my sisters. I could
16 just get in my car and drive to his location. I wasn't
17 being followed.

18 They did raid the club two or three times in 28
19 months but he felt we didn't get the pressure we were
20 supposed to get.

21 Q Mr. Vitale, do you recall testifying at a proceeding
22 against Mr. Massino that in fact there was an agent by the
23 name of --

24 MR. BURETTA: Objection.

25 THE COURT: Sustained.

Vitale - Cross/Kedia

3021

1 Q Mr. Massino --

2 THE COURT: First of all, where are you?

3 Q Do you recall testifying --

4 MS. KEDIA: SV 226 B page 566.

5 THE COURT: The line?

6 MS. KEDIA: Line 23.

7 Q Question: How did you know Pat Marshall was an
8 FBI agent?

9 Answer: He was all over; Joe Massino was on
10 the lam.

11 Question: What did he question you about?

12 Answer: Where Joe was, when he was coming
13 back.

14 Do you remember being asked those questions and
15 giving those answers?

16 A He did.

17 Q So there was an FBI agent that was kind of all over
18 at the time?

19 A Are you saying how many times did I see him in 28
20 months? Maybe ten.

21 Q Meaning you saw the FBI agent personally maybe ten
22 times?

23 A No, I never spoke to an FBI agent; I wouldn't speak
24 to him.

25 Q You saw the FBI agent ten times?

Vitale - Cross/Kedia

3022

1 A They were parked at our club. Were they there for me
2 or Spero or Mr. Massino or Louie Ha Ha or Big Louie, I
3 can't answer that.

4 Q Well --

5 A He did ask me once where Mr. Massino was and I didn't
6 answer him.

7 Q During this period of time, Mr. Vitale, you certainly
8 weren't telling any law enforcement agents where Mr.
9 Massino was, right?

10 A No.

11 Q And you obviously knew yourself, right?

12 A I knew where he was.

13 Q Now, you went down to visit Mr. Massino on several
14 occasions, right?

15 A Yes.

16 Q And in fact, several other people went to visit Mr.
17 Massino as well, right?

18 A True.

19 Q Now, let me ask you: What was your position in the
20 family at this point in time?

21 A An associate.

22 Q Did you go around -- apart from the people that also
23 went to visit Mr. Massino, obviously you knew, knew about
24 Mr. Massino being on the lam, did you openly discuss this
25 within the Bonanno family, that Mr. Massino was gone?

Vitale - Cross/Kedia

3023

1 A No.

2 Q You would not have done that, right?

3 A Everybody knew he was on the lam.

4 Q When you say "everybody knew," there were certain
5 people going to visit him, right?

6 MR. BURETTA: Objection.

7 THE COURT: Sustained.

8 Q When you say "everybody knew," what does that mean?

9 A I would say 50 percent of the family knew Mr. Massino
10 was on the lam.

11 Q What about the other 50 percent?

12 MR. BURETTA: Objection.

13 THE COURT: Sustained.

14 Q When you say that 50 percent of the family knew he
15 was on the lam, you are saying that there are people that
16 didn't know, is that right?

17 MR. BURETTA: Objection.

18 THE COURT: Sustained.

19 Q Despite the fact -- let me ask you this: One of the
20 people that went to visit Mr. Massino was John Gotti
21 right?

22 A I drove Mr. Gotti there once.

23 Q You drove him personally?

24 A I did.

25 Q When we say John Gotti, we are talking about John

Vitale - Cross/Kedia

3024

1 Gotti, Sr., the same man that killed Paul Castellano?

2 A That's true.

3 Q And John Gotti, Sr. was certainly an individual that
4 had a lot of law enforcement surveillance, a lot of heat
5 on him, right, over the course of years and years, right?

6 A I don't know that's fair to say in the early '80s.
7 After he killed Paul, yes. In the early '80s before that,
8 I don't know. He could move around pretty freely.

9 Q There were other people like Anthony Spero who went
10 to visit Mr. Massino?

11 A True.

12 Q And there was Louie Ha Ha, right?

13 A That's true.

14 Q And Mr. Massino even spoke to the boss of the family,
15 right?

16 A At one time, true.

17 Q Despite all of this, law enforcement was unable to
18 find Mr. Massino, is that right?

19 A I don't think they were looking for him.

20 Q They were at your club asking you about him, right?

21 A Right, but I don't think they were giving it a full
22 court press.

23 Q Well --

24 A That's just an opinion.

25 Q That's just your opinion?

Vitale - Cross/Kedia

3025

1 A My opinion.

2 Q And Mr. Vitale, in fact, Mr. Massino was only found
3 when he surrendered himself, right?

4 A He turned himself in.

5 Q He decided to voluntarily come back and turn himself
6 in?

7 A Yes.

8 Q Now, you also had documents in case you ever had to
9 go on the lam, right?

10 A True.

11 Q What kind of documents?

12 A Union card, a gym card, birth certificate.

13 Q Are these documents that are in other people's names?

14 A I used an alias.

15 Q An alias?

16 A Yes.

17 Q What was the alias that you used?

18 A I think it was Russo.

19 Q How many -- what kinds of -- you said a union card?

20 A I think it was a union card, a gym card, a birth
21 certificate.

22 Q When is it that you had these documents created for
23 you?

24 A The '90s. I don't recall.

25 Q In the 1990s, well after Massino had already been on

Vitale - Cross/Kedia

3026

1 the lam and come back?

2 A True.

3 Q Who did you go to?

4 A An individual named Patty DeFillipo helped me.

5 Q Did other people go with you to have these documents
6 created?

7 A No.

8 Q Did other people, to your knowledge, have those types
9 of documents created?

10 A Did other people have those documents?

11 Q Those kinds of documents, documents in case they
12 needed to go on the lam.

13 A I don't know.

14 Q You didn't have discussions with anyone about their
15 desire to go on the lam?

16 A No.

17 Q And you didn't discuss your obtaining documents to go
18 on the lam with other people?

19 A Did I conspire with other individuals to go on the
20 lam?

21 Q Did you tell other people about the fact that you
22 were getting documents?

23 A I think Patty knew, that was about it.

24 Q Just this one person that helped you get the
25 documents?

Vitale - Cross/Kedia

3027

1 A Yes.

2 Q Now, when Mr. Massino left is in the early 1980s?

3 A Yes.

4 Q When he left New York, in fact, there was a period of
5 time he was just in the Hamptons, right?

6 A Sorry?

7 Q There was a period of time that he actually just was
8 in the Hamptons, right?

9 A For about two, three weeks.

10 Q This is a time when he is hiding out?

11 A True.

12 Q There were a number of other individuals that were
13 indicted during this period of time, right?

14 A That's why he took flight.

15 Q And after this two- or three-week period in the
16 Hamptons, he went to Pennsylvania?

17 A True.

18 Q So during this time on the lam, he didn't even leave
19 the country?

20 A No; he never left the country.

21 Q When he went on the lam, you didn't actually speak to
22 him until he was at his final location, is that right?

23 A The second location was his final location.

24 Q And you didn't actually speak to him until he was
25 there, right?

Vitale - Cross/Kedia

3028

1 A Did I speak to him while he was in the Hamptons?

2 Q Did you?

3 A Is that the question?

4 Q Yes.

5 A I always knew where Mr. Massino was. We had
6 intermediates coming back and forth. He had other
7 individuals with him that were able to reach me at any
8 given moment.

9 Q Mr. Vitale, did you speak to him before he was at his
10 final location?

11 MR. BURETTA: Objection.

12 THE COURT: Sustained.

13 Q Mr. Vitale, do you recall being asked this question
14 and giving this answer, SV 226 A, page 5633, line 19:

15 Question: Were you in fact with him during the
16 time he was traveling -- on line 16.

17 And then: You heard that Mr. Massino went to
18 the Hamptons. How did you hear it?

19 Answer: He told me.

20 Question: Were you in contact with him during
21 the time he was traveling?

22 Answer: Not until he got to his final
23 location.

24 MR. BURETTA: Objection. Move to strike.

25 THE COURT: Sustained.

Vitale - Cross/Kedia

3029

1 The jury is instructed to disregard it.

2 Q Mr. Vitale, when Mr. Massino left, he certainly
3 wasn't the boss of the family at that time, right?

4 A Was he the official boss of the family? No.

5 Q Was he the acting boss of the family?

6 A He was respected as a boss of the family. The
7 captains rallied around Mr. Massino.

8 Q Did he hold the position of acting boss of the
9 family?

10 A It's hard to say. Him and Sonny Black actually were
11 the family, they won the war, they killed the three
12 captains, they orchestrated it, they put it together. He
13 was looked upon as, to use your expression, the acting
14 boss. Did he have the title? I think they let Sally
15 Ferrugi so he could get the weight.

16 Q What does that mean, "so he could get the weight"?

17 A As a figurehead, use him as a sacrificial lamb. They
18 didn't care what happened to Sally Ferrugi.

19 Q What does that mean, "use him as a sacrificial lamb"?

20 A Well, the word on the street is that he is the acting
21 boss, hopefully law enforcement will key on him, not Mr.
22 Massino and Sonny Black.

23 Q So you mean using him for purposes of law enforcement
24 surveillance, have them worry about him as opposed to
25 somebody else?

Vitale - Cross/Kedia

3030

1 A That's fair to say.

2 Q When you say Mr. Massino and Mr. Black were really
3 running -- you said Sonny Black, Black is not his last
4 name?

5 A Napolitano, Sonny Napolitano.

6 Q You say that Mr. Massino and Sonny Black were running
7 the family. Mr. Massino actually ordered the murder of
8 Sonny Black, right?

9 A After the Donnie Brasco situation.

10 Q Before he went on the lam?

11 A He was present when they killed -- he was present
12 when they killed Sonny Black.

13 Q This was before he went on the lam, right?

14 A Yes.

15 Q Now, while Mr. Massino was away on the lam, he left
16 another person in charge of running things, right?

17 A I think Anthony Spero took a very active role in
18 running the family when Mr. Massino was gone.

19 Q Do you recall testifying that in fact he left a
20 person by the name of Gabe Infanti in charge?

21 A That's true. Gabe was in contact with him twice,
22 three times a week. That's true.

23 Q And Mr. Massino had the power to do this even though
24 he didn't hold the title of official boss or acting boss
25 or even underboss, right?

Vitale - Cross/Kedia

3031

1 MR. BURETTA: Objection.

2 THE COURT: Sustained.

3 Q Well, Mr. Massino certainly didn't have one of the
4 administration positions, the official positions when he
5 did this, right?

6 A His official position was captain.

7 Q Captain, not consigliere or underboss or boss?

8 MR. BURETTA: Objection.

9 THE COURT: Sustained.

10 Q Now, Mr. Vitale, the murders that you have been
11 involved in, we spoke about, required obviously a lot of
12 planning. How many people do you recall were involved in
13 the three captains' homicide?

14 MR. BURETTA: Objection.

15 THE COURT: Please approach for a moment.

16 (Continued on the next page.)

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Sidebar

3032

1 (Sidebar.)

2 THE COURT: Your objection is?

3 MR. BURETTA: First, she is making commentary
4 before asking a question. Second, we have been over this
5 topic. She has done the topic of careful planning and
6 multiple people involved. We have done this.

7 THE COURT: You have.

8 MS. KEDIA: I asked him one question.

9 THE COURT: You used 48 minutes before lunch.
10 After lunch you went from 1:40 and it's going to be 3:40
11 in about 15 minutes. So you have more than had the
12 opportunity to cover these topics.

13 I plan on breaking at 3:40 for 15 minutes and
14 then Mr. LaRusso will take over unless you decide to go
15 with another topic and Mr. LaRusso can have 15 minutes at
16 the end.

17 That's it. Let's move on.

18 (Sidebar concluded.)

19 (Continued on the next page.)
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Vitale - Cross/Kedia

3033

1 (In open court.)

2 THE COURT: The objection is sustained.

3 BY MS. KEDIA: (cont'd)

4 Q Mr. Vitale, we talked about the murder of a person
5 named Cesar Bonventre. You were involved in that murder,
6 right?

7 A True.

8 Q Why is it that Cesar Bonventre was killed?

9 A What I was told or why he was killed?

10 Q What do you know the reason to be that Mr. Bonventre
11 was killed?

12 A Mr. Massino felt that he didn't send him nothing for
13 when he was on the lam and that he was too flamboyant. I
14 don't know the real reason why he was killed.

15 Q So meaning you participated in a murder without
16 knowing the real reason?

17 A Mr. Massino says we are going to kill him, we killed
18 him.

19 Q Now, there was a murder of this individual -- you
20 said there was this person Gabe Infanti that Mr. Massino
21 left in charge of running the family while he was on the
22 lam, right?

23 A That's true.

24 Q And in fact, he was also murdered, right?

25 A That's true.

Vitale - Cross/Kedia

3034

1 Q At the time that he was murdered, Mr. Massino
2 actually told Mr. Spero that he had a personal knowledge
3 that Gabe Infanti was speaking to the FBI, right?

4 A He told me.

5 Q He told you that?

6 A Yes.

7 Q That was a lie, right?

8 A I don't know if he had personal knowledge but I know
9 other reasons. I don't know if he had -- if he did know
10 that he was talking to the FBI. I'm not sure of that.

11 Q Meaning that Mr. Massino would make up a reason why
12 somebody needed to be killed?

13 A I don't know if he made it up. That's what he told
14 me.

15 Q When you say you don't know that he made it up, did
16 you learn that Mr. Massino in fact didn't have such
17 information?

18 A Did Mr. Massino tell me he didn't have that
19 information?

20 Q Did you learn that?

21 A That was an assumption on my part.

22 Q He didn't have that information?

23 A That was an assumption after the fact.

24 Q The assumption was that Mr. Massino lied to you?

25 A I would say that's fair to say.

Vitale - Cross/Kedia

3035

1 Q Now, let me ask you this: Mr. Spero at the time of
2 this murder was not happy about this?

3 A Not at all.

4 Q And did he voice his opinion about this?

5 A To me.

6 Q What about to Mr. Massino?

7 A He was unable to.

8 Q Nevertheless, Mr. Spero was involved?

9 A Sorry?

10 Q Mr. Spero was involved in this murder?

11 A He was.

12 Q How many other people were involved in this murder?

13 A Approximately three, four, that I'm aware of.

14 Q Meaning that there are other people that you may not
15 be aware of?

16 A True.

17 Q Who are the people that you are aware of?

18 A Frankie Lino, he is a captain; Spero; Cheech, this
19 individual named Cheech, he was acting captain; Louie
20 Restivo, official captain; and I don't know who Frankie
21 Lino brought to be the actual shooters.

22 Q Meaning those four people you named and obviously you
23 and Mr. Massino, that's six, right?

24 A Me and who?

25 Q Mr. Massino who ordered it. Mr. Massino ordered the

Vitale - Cross/Kedia

3036

1 killing?

2 A Did Mr. Massino know who was going to be the
3 participants?

4 Q Those six people were involved and you said some
5 shooters were involved?

6 A Yes.

7 Q You don't know who the shooters are?

8 A I think one shooter was Tommy Karate but I'm not
9 positive. I wasn't there.

10 Q And so you weren't even informed as to who the
11 shooters were?

12 A No, I gave it to Frankie Lino, it was his regime, his
13 men, he was to handle it.

14 Q And afterwards, no one came and told you how it was
15 done, who did it?

16 A I never questioned who was the shooter.

17 Q It was something you didn't discuss after the murder
18 occurred?

19 A True.

20 Q Let me ask you this: There were certain murders that
21 actually occurred in social clubs, right?

22 A Sorry?

23 Q There were certain murders that you were involved in
24 that actually occurred inside of social clubs, right?

25 A Which murder are we talking about?

Vitale - Cross/Kedia

3037

1 Q You participated in 11 of them. In any of those 11,
2 do you recall there being a murder inside a social club?

3 A Yes.

4 Q Which murders?

5 A The three captains.

6 Q The three captains were actually asked to come to a
7 social club?

8 A Yes.

9 Q And a social club is a place that you all gathered to
10 simply have dinner or whatever, right?

11 A Yes.

12 Q And a social club is a place that you know is being
13 surveilled on a regular basis, right?

14 A Possibly.

15 MR. BURETTA: Objection.

16 THE COURT: Sustained.

17 Q Mr. Massino, you --

18 MR. BURETTA: Mr. Vitale.

19 Q Sorry.

20 Mr. Vitale, you actually would check for bugs
21 inside of social clubs, right?

22 A In our social club, yes.

23 Q In fact, there was a point where you actually found a
24 bug in a social club?

25 A In mine and Mr. Massino's club, yes.

Vitale - Cross/Kedia

3038

1 Q In fact, because of these bugs, you didn't speak
2 inside of social clubs, right?

3 A True.

4 Q But you committed three -- the murder of three
5 captains inside of a social club?

6 A That's where they laid it out. That's where we did
7 it.

8 Q And the actual shooting, they were killed by
9 shooting?

10 A By who?

11 Q By a shooting, they were killed by guns?

12 A True.

13 Q And the actual shooting occurred inside a social
14 club?

15 A Yes, ma'am.

16 Q Were you concerned that the place was bugged?

17 A I didn't know the location until we got there. When
18 I was there, I was shocked but I think it was too late, it
19 was in motion and I relied on Mr. Massino's picking the
20 place with the zips and I went along with it.

21 Q What do you mean when you got there, you were
22 shocked?

23 A I didn't realize -- when I walked in, I realized it
24 was a social club.

25 Q Meaning the location surprised you?

Vitale - Cross/Kedia

3039

1 A That's what you asked.

2 Q You didn't suggest to anyone: Hey guys, maybe we
3 shouldn't do it?

4 A No.

5 Q Were there any other murders that you were involved
6 in inside of a social club?

7 A Yes.

8 Q Who was that?

9 A Big Louie's club.

10 Q Who was the person?

11 A Russell.

12 Q Murdered?

13 A Russell Mauro. Yes.

14 Q When you say Big Louie's club, this is somebody in
15 the Bonanno family, right?

16 A True.

17 (Continued on the next page.)

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Vitale - Cross/Ms. Kedia

3040

1 CROSS-EXAMINATION (Continued)

2 BY MS. KEDIA:

3 Q. And the murder, when the murder occurred, what was
4 Big Louie's position in the family?

5 A. Official captain.

6 Q. So he was someone kind of high-up in the family. Is
7 that right?

8 A. Sorry?

9 Q. He was someone kind of high-up in the family?

10 A. He was a captain.

11 Q. And this is one of the three murders that you
12 committed without consulting Mr. Massino. Right?

13 A. Right.

14 Q. And this is -- was this one of the murders that you
15 and Mr. Spero took it upon yourselves to order. Right?

16 A. Well, I don't think you could use the expression took
17 it upon ourselves.

18 I think Spero was fully authorized to murder as
19 the official consiglieri of the family.

20 Q. The two of you together decided that Russell Mauro
21 should be killed?

22 A. True.

23 Q. And you knew that he was going to be killed in the
24 social club. Right?

25 A. True.

Vitale - Cross/Ms. Kedia

3041

1 Q. Were you concerned then?

2 A. Correct. Very.

3 Q. Very?

4 A. I told Big Louie, *You have to be out of your mind.*

5 He said, *Leave it to me. My club is fine.*

6 I said, *Louie you got to be crazy.*

7 He said, *Sal, please. Leave it to me. There is*
8 *no bugs in there. I guarantee it. Leave it to me.*

9 I said, *Okay.*

10 It was good enough for him and his crew, it was
11 good enough for me.

12 Q. You were the one in charge, not Big Louie?

13 A. But it was his location.

14 Q. Well, you're the one that asked him to get a
15 location. Is that right?

16 A. Would you repeat the question?

17 Q. You're the one who asked him to get a location. Is
18 that right?

19 A. No, he volunteered the location, because Russell was
20 going there to make a stock buy, some kind of fraudulent
21 stock deal. And he said, *Before he hurts you, let me hurt*
22 *him.*

23 I says, *Where?*

24 He said, *my club.*

25 I said, *You got to be out of your mind.*

Vitale - Cross/Ms. Kedia

3042

1 He said, *Leave it to me. My club is fine.*

2 I said, *Louie, you got to be crazy.*

3 He said, *Leave to me. Me and my men will take*
4 *care of it.*

5 And I says, *go ahead.*

6 Q. And you left then?

7 A. I left then.

8 Q. You know, let me ask you this. When you kill
9 somebody, you're going to have other members involved.
10 Right?

11 MR. BURETTA: Objection.

12 THE COURT: Sustained.

13 BY MS. KEDIA:

14 Q. Well, Mr. Vitale, in the murders that you had
15 participated in, you certainly had a number of other
16 people involved. Right?

17 MR. BURETTA: Objection.

18 THE COURT: Sustained.

19 BY MS. KEDIA:

20 Q. Apart from the people involved in the murder, did
21 anyone else know about the murders?

22 MR. BURETTA: Objection.

23 THE COURT: Sustained.

24 Ladies and gentlemen, you have been sitting over
25 two hours now.

Vitale - Cross/Ms. Kedia

3043

1 We're going to take our mid-afternoon break.

2 Dont discuss the case. Don't talk about the

3 case. We'll resume in ten minutes.

4 (The jury left the courtroom at 3:38 p.m.)

5 THE COURT: Ms. Kedia, you have been examining
6 this witness on cross-examination, taking out the luncheon
7 recess and this break, now two hours and 45 minutes.

8 I indicated you had two hours. I would
9 appreciate it if you direct your questions on matters that
10 are critical and not collateral. If you want to talk
11 about these 11 murders, and that is your defense, that is
12 fine. But Mr. LaRusso now has the opportunity to
13 cross-examine.

14 Mr. LaRusso, do you want to begin your cross
15 when we resume back here in 15 minutes?

16 MR. LaRUSSO: No, your Honor. As I indicated to
17 you on the side bar, I view the testimony of this witness
18 to be basically involving Mr. Persico.

19 So I feel that Ms. Kedia should be given as much
20 leeway to attack his credibility in any areas that she
21 feels are necessary. And I, at this point, only intend to
22 do about maybe 15 minutes.

23 I limited myself to very, very few questions.
24 And primarily relating to his two arrests and his release,
25 and maybe a few questions about my client.

Vitale - Cross/Ms. Kedia

3044

1 It won't be long, Judge, 15 minutes.

2 THE COURT: All right, 15 minutes you will get.

3 MR. BURETTA: Your Honor, I would request five
4 minutes for redirect on a couple of issues regarding the
5 statement she attacked concerning Mr. Persico.

6 THE COURT: All right. We'll see how it goes.
7 Because that is going to be after five, and I
8 don't know if the jury is willing to stay.

9 MR. BURETTA: Thank you, Judge.

10 (A recess was taken at 3:45 p.m.)

11 (The jury entered the courtroom at 3:57 p.m.)

12 THE COURT: Ready to resume.

13 BY MS. KEDIA:

14 Q. Mr. Vitale, you were shown this document that is in
15 evidence as Government Exhibit 171.

16 MS. KEDIA: If I can have the original?

17 BY MS. KEDIA:

18 Q. While Mr. Buretta is looking for it. You recall this
19 in the *Shy Book*, you called it?

20 A. Yes.

21 Q. And when you say a *Shy Book*, you mean money that you
22 were loansharking?

23 A. Yes.

24 Q. And did you consider yours a big loan shark?

25 A. I would say average.

Vitale - Cross/Ms. Kedia

3045

1 Q. Now, let me ask you.

2 You were asked about -- when you say *average*,
3 how much money would you say you had out at any given
4 time?

5 A. At one time, we had \$600,000 out. Other times, we
6 had \$10,000 out. You can't put a figure on it.

7 Q. You said 600?

8 A. At one time, we did have as much as \$600,000 out.
9 And when we started, we had \$10,000 out.

10 Q. And when you say *we*, who do you mean is *we*?

11 A. Mr. Massino was my partner.

12 Q. And when you had \$600,000 out, where did this money
13 come from?

14 A. Illegal activities.

15 Q. All kinds of illegal activities?

16 A. If we needed money, we would -- he would go get his,
17 I would go get mine and we would give it.

18 Q. Where would you get the money that you gave to
19 individuals?

20 A. From one of our bunks. If he had money laying around
21 the house, and I had money laying out around the house, we
22 would give -- put it together and give it to the
23 individual.

24 Q. One of your what?

25 A. A bunk, we called it a bunk.

Vitale - Cross/Ms. Kedia

3046

1 Q. So that was a place, this was a place, a location
2 where you established a lot of money. Is that what that
3 means when you say your bunk?

4 A. It could have been \$50,000, \$20,000, whatever.

5 Q. And, in fact, you obviously -- when you have \$600,000
6 out on the street, that wasn't every dime you had. Right?

7 A. No.

8 Q. You had other money sitting somewhere else,
9 established somewhere else. Right?

10 A. Correct.

11 Q. And that is true for you and that is true for
12 Mr. Massino?

13 A. I can't hear you when you turn round.

14 Q. That was true for you and that was true for
15 Mr. Massino. Right?

16 A. Yes.

17 Q. Now, you were shown your book. An entry in your book
18 for a person by the name of Bobby.

19 A. Bubbie.

20 Q. Bubbie. And you were shown these amounts of 25 --
21 these are amounts that he is paying back. Is that right?

22 A. Yes.

23 Q. At first you loan him \$50, he is paying back \$25, and
24 so on and so forth?

25 A. That's true.

Vitale - Cross/Ms. Kedia

3047

1 Q. You were charging interest on the money?

2 A. When we were charging -- let's say on the \$50 for a
3 period of time.

4 One, he couldn't afford to pay no more. I think
5 he was going to jail at the time. We told him, *Whatever*
6 *you give us, we'll take off the top.* And we stopped the
7 interest.

8 Q. These documents here in your Shy Book don't reflect
9 the amount of money you were earning in interest. Is that
10 right?

11 A. No.

12 Q. The documents that are in your Shy Book -- the amount
13 of monies that are in your Shy Book only actually reflect
14 the amount of money that you're owed off the top by the
15 individual you loaned the money to. Right?

16 A. That is how it is.

17 Q. And it doesn't show anywhere how much money you have
18 stashed away somewhere. Right?

19 A. No.

20 Q. And it doesn't show overall how much money you have
21 out on the street at any given time. Right?

22 A. That book is the amount we have out in the street.

23 Q. Well, it is the amount by the individual. Right?

24 MR. BURETTA: Objection.

25 THE COURT: Sustained.

Vitale - Cross/Ms. Kedia

3048

1 BY MS. KEDIA:

2 Q. Well, when you have Bubbie's, the amount that he owes
3 \$12,000 -- owed at the exact same time that Vinnie the
4 Bronx owes you \$30,000 or \$35,000?

5 A. True.

6 Q. Is that right?

7 A. Yes.

8 Q. And what period of time was this?

9 A. I don't recall.

10 Q. Now, the same thing is true for this entry with
11 Vinnie the Bronx that you were shown. Right?

12 A. Yes.

13 Q. The money is reflected is only the money he owed you?

14 A. True.

15 Q. And it doesn't show how much money that you earn in
16 interest?

17 A. No.

18 Q. And that is true with every entry in your shylock
19 book. Right?

20 A. Yes.

21 Q. Now, Mr. Vitale, what is the -- the last time you
22 made an entry in this Shy Book was when?

23 A. I would say the summer of '99.

24 Q. So were you loansharking between December of 1999 and
25 the time you began cooperating in January of 2003?

Vitale - Cross/Ms. Kedia

3049

1 A. No.

2 Q. You quit?

3 A. No, we didn't put new money out on the street. We
4 were looking to dissolve the book.

5 Q. And had the people that you had loaned money to that
6 were reflected in this book, had they paid you back?

7 A. No.

8 Q. And did they ever pay you back?

9 A. No.

10 Q. So at the time that you stopped this loansharking
11 business, there were still hundreds of thousand dollars
12 owed to you. Right?

13 A. True.

14 Q. But in spite of that, you still had hundreds of
15 thousand of dollars on the street, you actually had
16 hundreds of thousand of dollars sitting available for your
17 use. Right?

18 A. That's true.

19 Q. In fact, when you were arrested, you actually had
20 \$750,000 sitting in a safe deposit box and tucked away in
21 your attic. Right?

22 A. True.

23 Q. And this is not the money that you had out on it
24 street. Is it?

25 A. That's true.

Vitale - Cross/Ms. Kedia

3050

1 Q. This is in addition to that?

2 A. Yes.

3 Q. Now, you were asked about another book, which is in
4 evidence as Government Exhibit 125, your phone book.
5 Right?

6 A. True.

7 Q. And this is a phone book that you maintained during
8 what period of time?

9 A. Until the day I got arrested.

10 Q. So this is a phone book that was up-to-date as of
11 2003 -- let's say, January of 2003?

12 A. Yes.

13 Q. And it is a phone book that you started keeping at
14 what time?

15 A. I don't recall.

16 Q. Approximately, how many years had you had it?

17 A. I don't recall.

18 Q. Did you have it in the mid-1990s?

19 MR. BURETTA: Objection.

20 THE COURT: Sustained.

21 BY MS. KEDIA:

22 Q. Do you have any recollection of whether you had it in
23 the 1990s?

24 MR. BURETTA: Objection.

25 THE COURT: Sustained.

Vitale - Cross/Ms. Kedia

3051

1 BY MS. KEDIA:

2 Q. Do you know when you made these entries for these
3 various numbers for this person, Tommy Shots?

4 A. That is when I met him.

5 Q. Which was when? Mid-nineties?

6 A. Maybe.

7 Q. And you started putting in different numbers that he
8 had at different periods of time. Is that right?

9 A. Every time he changed his number, he gave me a new
10 number.

11 Q. And over the years he changed his number many times?

12 A. That is what it looks like.

13 Q. And what is reflected here in this phone book are all
14 of the numbers that you had for him?

15 A. Those are the only numbers I had for Tommy Shots.

16 Q. And nowhere in your phone book, Mr. Vitale, do you
17 have any number certainly for Mr. Persico. Right?

18 A. That's true.

19 Q. And you never had any way, other than through Tommy
20 Shots to get in touch with Mr. Persico. Is that right?

21 A. That's true.

22 Q. Now, you testified about a meeting that you had in
23 September of 2007, just a few weeks ago with prosecutors
24 and agents. And one of the discussions that you had at
25 this meeting was this dispute in the family in the early

Vitale - Cross/Ms. Kedia

3052

- 1 1990s. Right?
- 2 A. What dispute?
- 3 Q. The dispute in the Colombo family, Colombo war?
- 4 A. I think it started before the 1990s.
- 5 Q. When do you believe that it started?
- 6 A. Late eighties.
- 7 Q. And how is it that you believe that it started?
- 8 A. Wait. What do you mean, how do I believe it started?
- 9 Q. I mean, you believe that it started in the late
- 10 eighties. Right?
- 11 A. I would say very late eighties.
- 12 Q. When?
- 13 A. When I met with Little Vic.
- 14 Q. And you talked about obviously two factions. What
- 15 side was Joe Waverly on?
- 16 A. Persico's.
- 17 Q. That was your belief during that time?
- 18 A. Yes.
- 19 Q. And that is your belief to this day?
- 20 A. Yes.
- 21 Q. Now, did anyone tell you that, Mr. Vitale?
- 22 A. He did.
- 23 Q. Mr. Waverly told you -- Joe Waverly told you that he
- 24 was on the Persico side?
- 25 A. Yes.

Vitale - Cross/Ms. Kedia

3053

1 Q. When did he tell you this?

2 A. It could have been the early nineties, very early
3 nineties, '91, '90, '91, '92. He was always on the
4 Persico side.

5 Q. And did he -- when you say *he was always*, did you
6 have several discussions with Joe Waverly about what side
7 of the war he was on?

8 A. No. One conversation is enough. I don't think he
9 changed flags.

10 Q. And so from the beginning of the dispute, you believe
11 that that is the side he was on?

12 A. I believe that.

13 Q. And how often during that period of time did you see
14 Joe Waverly?

15 A. If I met Joe Waverly five times -- four or five times
16 in that period of time frame, it was a lot.

17 Q. Four or five times. When you say in that time frame.
18 What time frame are you talking about?

19 A. From the late eighties to mid-nineties.

20 Q. So during this period before this meeting with Andy
21 Russo where the situation is resolved. That is what you
22 mean?

23 A. Yes.

24 Q. And under what circumstances did you meet with Joe
25 Waverly?

Vitale - Cross/Ms. Kedia

3054

1 A. He had a disagreement with our Big Louie over some
2 condos that were being built. I don't recall where.

3 But I sat down with them. They resolved it.

4 There was another time he met me at the Huntington Hilton.

5 Q. Can you tell us when that was, approximately?

6 A. No.

7 Q. Okay. Go ahead.

8 A. And he told me if I wouldn't mind talking to Tommy
9 Shots because he had a ton of heat.

10 Q. Because?

11 A. Other times I don't recall.

12 Q. Wait. What did you just say? Tommy?

13 A. There were times I met him that I don't recall why.

14 Q. You said something about *a ton of heat*, Tommy Shots
15 having a ton of heat?

16 A. In other words, Joe Waverly didn't want to meet with
17 me because he had felt he had a lot of heat, and you
18 couldn't move around. So if I would mind running messages
19 to Tommy shots. And I said, no.

20 Q. Meaning Joe Waverly had a ton of heat?

21 A. Meaning what?

22 Q. Joe Waverly had a ton of heat?

23 A. Yes.

24 Q. And do you have any recollection of when that would
25 have been?

Vitale - Cross/Ms. Kedia

3055

1 A. No.

2 Q. And what other meetings did you have with Joe
3 Waverly?

4 A. I don't recall.

5 Q. Now, when you met with Mr. Persico, you believe now
6 that it was late 1999. Right?

7 A. After my son's wedding in '99, yes.

8 Q. And your son's wedding was in June you said?

9 A. Yes.

10 Q. Now, when you told the government about the meeting
11 with Mr. Persico, did you recall when the meeting with
12 Mr. Persico was, specifically?

13 A. The actual date and the month?

14 Q. Did you have a clear recollection as to a year?

15 A. I believe it was '99.

16 Q. And did you have that clear recollection when you
17 first told the government about this in September of 2006?

18 A. I believe I said it was '99.

19 Q. And did you have a clear recollection of when in 1999
20 it was?

21 A. I don't remember the month.

22 Q. You don't know and you didn't then?

23 A. I don't recall that day.

24 Q. When you said that Mr. Persico said to you, *You can't*
25 *take what's not yours.*

Vitale - Cross/Ms. Kedia

3056

1 Did you have any discussions with Wild Bill
2 about trying to take something that wasn't his?

3 A. No.

4 Q. Did Mr. Massino, to your knowledge, have any
5 discussions with Wild Bill about trying to take something
6 that wasn't his?

7 A. Not to my knowledge.

8 Q. Did anyone that you know have any discussion with
9 Wild Bill about trying to take something that wasn't his?

10 A. No.

11 Q. Now, when you had a meeting with Joel Cacace after
12 this meeting -- Joe Waverly you know him by. Right?

13 A. Who? When did I have a meeting with Joe Waverly?

14 Q. When you had a meeting with Joe Waverly, after this
15 meeting with Mr. Persico, you said that, in fact, Joe
16 Waverly said something about Bill may be popping up soon
17 as a way to kind of -- kind of tell everybody, to shush
18 everybody up. Right?

19 A. I never had a meeting with Joe Waverly.

20 Q. I'm sorry? You never had a meeting with Joe Waverly?

21 A. I never had a meeting with Joe Waverly.

22 Q. There was a meeting that you were told about this.
23 Is that right?

24 A. I was upstairs. He met with Mr. Massino, Little
25 Larry, Pete Gotti and Louie Bagel.

Vitale - Cross/Ms. Kedia

3057

1 Q. Now, in that meeting, what was conveyed to you is
2 that someone at the meeting actually asked Joe Waverly how
3 Wild Bill is doing. Right?

4 A. I don't know how Wild Bill's name came up. But they
5 were sliding on the answer.

6 Q. Let me show you what is marked as 3500 SV-20. You
7 may have it still in front of you, in fact. 152 to 155.

8 I direct your attention to the first paragraph
9 on page 2. And if you need the last paragraph on page 1.

10 Now -- I'm sorry, did you have an opportunity to
11 look at that yet?

12 A. I did.

13 Q. Now, having looked at that, does that refresh your
14 recollection that, in fact, Wild Bill's name came up
15 because someone in the meeting in 2000 asked Joe Waverly
16 how Wild Bill's doing?

17 A. Sure.

18 Q. And that -- and that Joe Waverly actually said in
19 response to that person, *Bill should be popping up soon,*
20 *or coming up soon?*

21 A. Right, sarcastically, saying, quote, *Whenever he pops*
22 *up, we'll address it then.*

23 Q. Who is it that asked how Wild Bill was doing?

24 A. I don't know.

25 Q. The people at this meeting were all people of a

Vitale - Cross/Ms. Kedia

3058

1 certain status in each of the five families. Right?

2 A. True.

3 Q. I mean, those were the only people that were invited
4 to a commission meeting. Right?

5 A. True.

6 Q. So whoever it was that said to Joe Waverly how Wild
7 Bill was doing, we're talking about someone who was at
8 this meeting representing one of the five families.
9 Right?

10 A. You're talking about somebody that was probing what
11 happened to Wild Bill.

12 Q. In 2000. Right?

13 A. At that meeting.

14 Q. Now -- and we're talking about someone who has some
15 rank in one of the families. Right?

16 A. True.

17 Q. Now, Mr. Vitale, when Sally the Horse was killed,
18 Mr. Massino actually thought that it came from within the
19 family. Right?

20 A. That's true.

21 Q. And he thought that it came from a person by the name
22 of Joe Brigante?

23 A. Yes.

24 Q. What is Mr. Brigante's rank?

25 A. Soldier.

Vitale - Cross/Ms. Kedia

3059

1 Q. Soldier, meaning just a made member. Right?

2 A. Yes.

3 Q. And did he ask Mr. Brigante if he was involved?

4 A. I don't know.

5 Q. Did you ask Mr. Brigante if he was involved in
6 killing Sally the Horse?

7 A. No.

8 Q. To your knowledge, did anyone ask Mr. Brigante
9 whether he was involved?

10 A. I'm not aware of that.

11 Q. What were the suspicions that, of Mr. Brigante, based
12 on?

13 A. I have no idea. That was Mr. Massino's feelings. I
14 didn't ask him why.

15 Q. Who was Mr. Brigante's captain at that time?

16 A. Either Junior or Frank Paco. I'm not sure.

17 Q. When you say *Junior*, you mean this person you spoke
18 about earlier, Junior Chilly?

19 A. Junior Chilly.

20 Q. And was either Junior Chilly or -- you said, Frank
21 Parco was the other person who might have been a captain?

22 A. Yes.

23 Q. Were -- do you know if either one of them said
24 anything to Joe Brigante about the murder of Sally the
25 Horse?

Vitale - Cross/Ms. Kedia

3060

1 MR. BURETTA: Lack of foundation.

2 THE COURT: Sustained.

3 BY MS. KEDIA:

4 Q. Well, did you have any conversations with either of
5 them about whether they spoke to Mr. Brigante about the
6 murder of Sally the Horse?

7 A. I didn't.

8 Q. And what about Mr. Massino?

9 A. Not that I'm aware of.

10 Q. Now, no one -- certainly not Mr. Brigante, actually
11 fessed up to this murder. Right?

12 A. Not that I'm aware of.

13 Q. Did anyone through the course of the investigation
14 that you had conducted, come up with any information about
15 what happened?

16 A. Not that I'm aware of.

17 Q. And how long a period of time -- was Mr. Massino the
18 boss when Sally the Horse was killed?

19 A. Yes.

20 Q. And how long a period of time was Mr. Massino out on
21 the street and able to conduct an investigation into Sally
22 the Horse's murder?

23 A. I don't recall.

24 Q. Any approximation of any number of years? You have
25 no idea?

Vitale - Cross/Ms. Kedia

3061

1 A. No, ma'am.

2 Q. Was this something -- in your view, was this a tragic
3 occurrence when Sally the Horse was killed?

4 MR. BURETTA: Objection.

5 THE COURT: Sustained.

6 BY MS. KEDIA:

7 Q. Well, he was a member of your family. Right?

8 MR. BURETTA: Objection.

9 THE COURT: Sustained.

10 BY MS. KEDIA:

11 Q. Well, Mr. Vitale, was there a discussion apart from
12 your -- was there a discussion, a lot of talk in the
13 family about Sally the Horse's murder?

14 A. No.

15 Q. There was no talk?

16 A. There was -- you said a lot of talk. There was some
17 talk, but not a lot of talk.

18 Q. So even within the other, the soldiers and the
19 captains, to your knowledge there wasn't a lot talk?

20 A. I can only answer for what is said in front of me. I
21 don't know what is going on in the back.

22 Q. Well, you can speak about what is said in front of
23 you or what is told to you about what is happening.

24 Right?

25 A. True.

Vitale - Cross/Ms. Kedia

3062

1 Q. And you, in fact, were the underboss of the family.
2 Right?

3 A. True.

4 Q. And you certainly knew a lot about what was going on
5 within the family?

6 A. True.

7 Q. Did you know whether there was talk about what
8 happened to Sally the Horse?

9 A. No.

10 Q. Now, Mr. Vitale, at the time in 1999 that you
11 testified you had this meeting with Mr. Persico, you were
12 actually on the shelf. Right?

13 A. Somewhat, yes.

14 Q. And what is being on the shelf?

15 A. It means Mr. Massino and I were having major fall-out
16 and he put me on a shelf. Not physically on the shelf,
17 but I was only privy to certain information. He
18 segregated me from the captains.

19 Q. When you say he segregated you. What does that mean?

20 A. In other words, I didn't socialize or stay with the
21 captains.

22 Q. Even the captains in your own family?

23 A. That's true.

24 Q. And what year was that, that he segregated you from
25 the captains in your own family?

Vitale - Cross/Ms. Kedia

3063

1 A. '99.

2 Q. In 1999?

3 A. Well, it started much earlier, but it really got full
4 scale in '99.

5 Q. Meaning it started much earlier?

6 A. Yes.

7 Q. So when, approximately, would you say it started,
8 that you were on the shelf?

9 A. '95.

10 Q. And would you say full scale, 1999? What happened in
11 1999 to cause it to be full scale?

12 A. I invited certain women to my wedding that their
13 husbands were in jail. And he was -- he was slighted by
14 it.

15 Q. Did you say you invited certain women to your
16 wedding?

17 A. My son's wedding.

18 Q. Your son's wedding. This is a wedding in June of
19 1999?

20 A. True.

21 Q. So by July of 1999, after your son's wedding, you
22 were fully on the shelf?

23 A. No, it -- I wasn't fully on the shelf. He is too
24 smart tap put me fully on the shelf. In other words, he
25 just segregates you from the men.

Vitale - Cross/Ms. Kedia

3064

1 He tells you to stay in Long Island because you
2 can't be -- you're hot. I'm hot. That is not socialize
3 with each other. You stay out there. I'll stay in here.
4 I'll worry about the men here. You take care of yourself.

5 Q. Now, were you allowed to talk to any of the captains
6 in your own family?

7 A. When it suits his purpose, yes.

8 Q. What do you mean?

9 A. When we were ready to kill George, he called upon me.
10 When we were going to see Allie Boy, he called upon me.

11 Q. Why did he need you, do you think, to meet Allie Boy?

12 A. He didn't need me.

13 Q. Well, Mr. Vitale, he wasn't allowing you to speak to
14 people in your own family. Right?

15 A. I wasn't socializing with my own captains, with his
16 own captains.

17 Q. Well, not only were you not socializing with the
18 captains, you weren't really the person giving the orders
19 to the captains now. Right?

20 A. I never was. They were coming from him.

21 Q. Well, did the orders always come directly from him to
22 the captains?

23 A. If he gave me an order to go tell a captain
24 something, I would.

25 Q. And so he was giving you orders to go tell them.

Vitale - Cross/Ms. Kedia

3065

1 Right?

2 A. True.

3 Q. But you're saying that there was a point where you
4 were segregated from them. Right?

5 A. I don't -- unless it suited his purpose.

6 Q. Meaning sometimes he would ask you to be involved
7 with something and sometimes he wouldn't?

8 A. True.

9 Q. Right?

10 A. True.

11 Q. And when you say the George murder, you said that was
12 one of the times that suited his purpose. Right?

13 A. Yes.

14 Q. And the George murder is a murder that he, despite
15 the fact that you were on the shelf, asked you to become
16 involved in. Is that right?

17 A. True.

18 Q. And the George murder occurred prior to your son's
19 wedding in 1999?

20 A. A month or two before.

21 Q. Now, if Mr. Massino -- what was your view of why
22 Mr. Massino would ask you to be involved in the George
23 murder if you were on the shelf?

24 A. Why was it, why would he use me?

25 Q. Yes.

Vitale - Cross/Ms. Kedia

3066

1 A. I have no idea. You have to ask him.

2 Q. Well, do you recall testifying that when Mr. Massino
3 needed a shooter, he would call upon you?

4 MR. BURETTA: Objection.

5 THE COURT: Sustained.

6 BY MS. KEDIA:

7 Q. Well, Mr. Vitale, when Mr. Massino needed a shooter,
8 would he call upon you?

9 A. When I answered that question, it was a mistake.
10 When he needed someone to participate in that shooting, he
11 called upon me.

12 I had used the word *shooting*, and the lawyer did
13 the same thing you just did. And then the prosecutor took
14 care of it at a later date.

15 Q. Now, when you say when you answered that question, it
16 was a mistake; are you talking about an answer to a
17 question that you were asked while you were under oath.
18 Is that what you're referring to?

19 A. Yes.

20 Q. And you recall that you said when Mr. Massino needed
21 a shooter, you would be called upon?

22 A. I said when Mr. Massino needed a shooter that day he
23 called upon me.

24 Q. And now you're saying that that is not what you
25 meant?

Vitale - Cross/Ms. Kedia

3067

1 A. I'm not a shooter.

2 MR. BURETTA: Objection.

3 THE COURT: Sustained.

4 A. I wasn't the shooter.

5 BY MS. KEDIA:

6 Q. Now, Mr. Vitale, you -- according to you, you have
7 not been the shooter. Right?

8 A. That's true.

9 Q. You have always been one of the people either
10 planning the murder or, on many occasions, you were
11 actually present during the murder. Right?

12 A. True.

13 Q. And even when you held a very high rank, you were
14 often either on the scene or near the scene. Right?

15 A. That's true.

16 Q. And the reason that you were near the scene or on the
17 scene is to make sure that everything went okay?

18 A. That is fair to say.

19 Q. Now, Mr. Massino didn't always have that same view.
20 Right, about being on the scene or near the scene. Right?

21 A. No.

22 Q. And, in fact, Mr. Massino would maybe leave town
23 during certain murders. Right?

24 A. True.

25 Q. And how often did that occur?

Vitale - Cross/Ms. Kedia

3068

1 A. Well, he left -- I think for George he was in Mexico.
2 The other, I don't recall.

3 Q. But when you say *for George he was in Mexico*, when he
4 was involved or ordered the murder of -- George was a
5 captain in your family when he was murdered?

6 A. Yes, in Joe's family.

7 Q. Which was also your family?

8 A. Joe's family. I was a part of Joe's family.

9 Q. So you considered it his, and you were just there?

10 A. He is the boss.

11 MR. BURETTA: Objection.

12 BY MS. KEDIA:

13 Q. Now you -- when George was murdered, the date was
14 picked ahead of time. Is that right?

15 A. By whom?

16 Q. By whomever was involved in planning it.

17 A. Joe wanted him dead within a certain week that he was
18 on vague. And we killed him in that week.

19 Q. Meaning Joe had planned to go on vacation. Is that
20 right?

21 A. Yes.

22 Q. To Mexico?

23 A. Yes.

24 Q. And he said, *These are the dates I'm going to be gone*
25 *and I want him dead when I get back?*

Vitale - Cross/Ms. Kedia

3069

1 A. Not in those many words, but --

2 Q. In substance?

3 A. Yes.

4 Q. And, in fact, you carried out that order. Right?

5 A. I'm sorry?

6 Q. And, in fact, you carried out that order. Right?

7 A. True.

8 Q. Now, Mr. Vitale, you testified that, in fact, after
9 your guilty plea and confession to 11 murders that you
10 have been involved in, you are hoping, because everybody
11 is hopeful, to get a reduced sentence. Right?

12 A. Am I hopeful to get a reduced sentence? Yes.

13 Q. Yes?

14 A. Yes.

15 Q. And, in fact, you know the people -- other
16 cooperators that like you have committed a whole host of
17 murders, but have gotten reduced sentences. Right?

18 A. I didn't hear your question.

19 Q. You know people who have committed a whole slew of
20 murders like you, and who have gotten significantly
21 reduced sentences. Right?

22 A. Yes.

23 Q. I mean, the first murder that you were charged in,
24 you were facing life. Right?

25 A. I don't know if I was facing life. That isn't why I

Vitale - Cross/Ms. Kedia

3070

1 cooperated.

2 Q. Why did you cooperate?

3 A. Because I felt that the Bonanno family turned their
4 back on me, and I felt it was time to put my family first.
5 When I was indicted in this courtroom, in November of
6 '01, not one captain asked me if I needed anything or if
7 my wife or children needed anything.

8 When I was indicted in '03, there was no reason
9 to keep it real. If they didn't care about me, I didn't
10 care about them.

11 Q. Well, when you were indicted in 2001 and no captain
12 came to you and cared about you, you didn't decide you
13 were cooperating then. Right?

14 A. Sorry?

15 Q. You didn't decide then that you were cooperating.
16 Right?

17 A. No. But after I received the 45 months and
18 Mr. Massino was telling everybody that *he must have*
19 *cooperated. How does an underboss only get 45 months for*
20 *football tickets. He should have got 45 years. I think*
21 *the cake was baked.*

22 Q. You received the 45 months when, Mr. Vitale?

23 A. January 31st of '03.

24 Q. And you already decided to cooperate -- you started
25 cooperating January 9th, of '03. Right?

Vitale - Cross/Ms. Kedia

3071

1 A. But the deal was worked out with my attorneys and the
2 US Attorney's office that we would get the 46 months.

3 Q. So when Mr. Massino started saying these things about
4 you, about a person getting 45 months; that was a period
5 of time where you had already started cooperating.

6 A. No. When we worked out the deal, I was still home
7 for six or seven months. And he had my lawyers go to his
8 house and he was questioning my lawyers on my deal.

9 Q. Well, when you say *we worked out the deal*. You
10 certainly didn't know exactly what kind of time you were
11 getting until you got it. Right?

12 A. I copped out to 36 to 45. I couldn't get more than
13 45.

14 Q. Your view of your -- your understanding of your --
15 you took a plea in that case. Right?

16 A. I did plea in that case.

17 Q. And your understanding is your plea agreement was
18 that you couldn't receive more than 45 months?

19 A. What indictment are you talking about? The '01
20 indictment?

21 Q. The '01 indictment.

22 A. The '01 indictment, the most I could have got
23 according to the guideline was from 36 to 46 months.

24 Q. And when you say under the sentencing guidelines,
25 you're talking about the most you faced, period, if the

Vitale - Cross/Ms. Kedia

3072

1 Judge wanted to give you more. You're talking about under
2 a book that says what sentence someone should get.

3 A. I'm talking about --

4 MR. BURETTA: Objection.

5 THE COURT: Overruled.

6 BY MS. KEDIA:

7 Q. Go ahead.

8 A. I'm talking about when my lawyers went into the
9 US Attorney's office, prior to me cooperating with the
10 government, six or seven months prior to me cooperating,
11 they said, *What could we do?*

12 So they used the guideline -- I think it was 21,
13 21 is I think 33 to 46 months, so I knew I was going away
14 for 46 months.

15 Mr. Massino made a big issue out of it saying
16 how that something is wrong.

17 Q. Mr. Vitale, what were you charged with in that
18 indictment?

19 A. Football tickets.

20 Q. And Mr. Massino's view was that 46 months was too
21 little time for football tickets?

22 A. For an underboss, yes.

23 Q. And at that point in time you hadn't been charged
24 with any of the alleged murders that you were involved in.
25 Right?

Vitale - Cross/Ms. Kedia

3073

1 A. True.

2 Q. And certainly the judge that was sentencing you in
3 that case, and agreeing to give you the 45 months, didn't
4 know that you had participated in 11 murders. Right?

5 A. No. I think he had my new indictment in front of
6 him -- Judge Spatt, in this courthouse. I think once you
7 get indicted while you're waiting to receive the sentence,
8 if you get indicted, the judge does get a copy of the new
9 indictment.

10 Q. Well, when the judge sentenced you in the other case,
11 the 2001 case, you weren't charged -- you weren't charged
12 with the murder in that case. Right?

13 A. No.

14 Q. You were separately charged with murder in the other
15 case. Right?

16 A. Repeat the question.

17 Q. You were separately charged, two separate
18 indictments. Right?

19 A. Yes, ma'am.

20 Q. One in front of one judge and one in front of
21 another. And to totally different time periods. Right?

22 A. True.

23 Q. One happened in 2001 and one happened in 2003.
24 Right?

25 A. Yes.

Vitale - Cross/Ms. Kedia

3074

1 Q. And in 2001 you were slighted by the captains, and
2 you didn't cooperate?

3 A. What?

4 Q. You were slighted by the captains. No one came to
5 visit you and you didn't cooperate. Right?

6 A. True.

7 Q. But you were given bail in that case. Right?

8 A. Yes.

9 Q. And, in fact, you were out on the street?

10 A. Right. Yes.

11 Q. And, in fact, you were given very, very, very
12 generous bail. Right?

13 A. A generous bail?

14 Q. Generous bail conditions. Right?

15 A. I don't understand what you mean.

16 Q. Well, you were allowed to have dinner with your wife
17 several times a week. Right?

18 A. True.

19 Q. And you were allowed to be out of your house at
20 night. Right?

21 A. During the day.

22 Q. During the day, all day.

23 A. To go to work.

24 Q. And when you were charged in 2003, you were charged
25 with a murder. Right?

Vitale - Cross/Ms. Kedia

3075

1 A. True.

2 Q. And that was the first period of time that you were
3 spending in jail. Is that right?

4 A. That was the first what?

5 Q. Period of time that you were spending in jail.
6 Right?

7 A. True.

8 Q. And that is the time that you decided that it was in
9 your best interests to now go cooperate. Right?

10 A. No. I started -- I was arrested January the 9th of
11 '03. By January 9th of '03, I was cooperating. The
12 agents --

13 Q. The same day?

14 A. The same day.

15 Q. What did you tell the agents on that day?

16 A. I said if my wife and children were coming to me into
17 the witness program, I would join. If they don't, I won't
18 join. I gave them permission to go see my wife and my
19 children.

20 Q. You had been separated from your wife at that point
21 for how many years?

22 A. Five years.

23 Q. For five years?

24 A. Yes.

25 Q. And you wanted them to come into the program with

Vitale - Cross/Ms. Kedia

3076

1 you?

2 A. True.

3 Q. And on January 9th, 2003, when you were arrested, did
4 you tell the agents that you were guilty of not only of
5 the murder that you were charged with, but of ten other
6 murders?

7 A. No.

8 Q. Did you tell them that you were guilty of any
9 murders?

10 A. That's true.

11 Q. That's true?

12 A. I didn't tell them that I was guilty of any murders.

13 Q. So when you say you decided to cooperate, or that you
14 actually began cooperating on January of 2003, you weren't
15 telling them anything. Right?

16 A. I said to them: *If you could work it out with my*
17 *wife and my children, I'll cooperate. If they don't*
18 *decide to go with me, I'm not cooperating.*

19 Q. And did the agents go see your wife -- when you say
20 your children, you're talking about grown sons. Right?

21 A. Yes.

22 Q. I mean, your son is married -- one of them got
23 married in 1999. Right?

24 A. Yes.

25 Q. And did the agents, in fact, go see your wife and

Vitale - Cross/Ms. Kedia

3077

1 you're children?

2 A. I don't think the US Attorney was there. I know my
3 agents did go to see my wife that evening.

4 Q. That very evening, January 9th of 2003?

5 A. Yes, ma'am.

6 Q. And was it your understanding that they agreed to go
7 into the program with you?

8 MR. BURETTA: Objection.

9 THE COURT: Sustained.

10 BY MS. KEDIA:

11 Q. Well, what was your understanding after
12 January 9, 2003, about whether you would cooperate or not?

13 A. They said they would go with me.

14 Q. Now, Mr. Vitale, you didn't actually meet with the
15 agents and confess your murders until some time later.
16 Right?

17 A. That's true.

18 Q. So until you spent maybe more than a month or two in
19 jail. Right?

20 A. There was a reason why. They wanted to take me out
21 that day. And I said, *No, you can't take me.*

22 They wanted to take me to a secret location
23 January 9th, and I told them, no.

24 Q. Mr. Vitale, you did you know at the time that you
25 started to cooperate how it is that you -- which murder

Vitale - Cross/Ms. Kedia

3078

1 you were charged with?

2 A. Bobby Corinno.

3 Q. Bobby Corinno. And he was a member of the Bonanno
4 family or not?

5 A. He was an associate. His father was on the board,
6 his father-in-law was an underboss.

7 Q. Was underboss of the family?

8 A. Yes.

9 Q. And at the time that you were charged with his
10 murder, did you understand how it is that the government
11 knew about your involvement in the murder?

12 MR. BURETTA: Objection.

13 THE COURT: Sustained. Please approach.

14 (The following occurred at sidebar.)

15 THE COURT: Ms. Kedia, it is kind of late for me
16 to mention it; but every time you turn to go back to the
17 podium, you turn your back slightly to this witness who,
18 apparently, is hard of hearing.

19 It is now that time.

20 Mr. LaRusso, are you going to begin your
21 cross-examination soon?

22 MS. KEDIA: I'll finish up. I mean, obviously I
23 moved on. I would like to make a record at the end of
24 day, but obviously I moved on to the cooperation.

25 THE COURT: At the end of day you can.

Vitale - Cross/Ms. Kedia

3079

1 MR. BURETTA: Is Mr. LaRusso going to go?

2 MR. LaRUSSO: Just so the record is clear, the
3 Court has ordered Ms. Kedia to cease cross. And I'm to
4 resume.

5 THE COURT: I have ordered --

6 MR. LaRUSSO: Judge, I'm not putting you on the
7 spot --

8 THE COURT: You don't put me on the spot, first
9 of all.

10 MR. LaRUSSO: That is not my intention.

11 THE COURT: First of all, you don't put me on
12 the spot.

13 I told you the way we were going to proceed
14 today. I think it is reasonable. I am not necessarily
15 going to allow the government to get into redirect,
16 frankly, because this is -- I don't know what number
17 cooperating witness we have had put on, so let's move
18 along.

19 You're done with yours?

20 MS. KEDIA: Your Honor, again, I would like to
21 make a record when I am done, because the Court is
22 ordering me to be done. I would like to obviously --

23 MR. LaRUSSO: I think she has some areas she
24 is -- I'm not covering. That is all I can say, Judge.

25 MS. KEDIA: And I would like to actually wrap

Vitale - Cross/Ms. Kedia

3080

1 it up at least with a couple of questions, Judge.

2 THE COURT: All right. You have three more
3 questions and then he goes.

4 (The following occurred in open court.)

5 BY MS. KEDIA:

6 Q. Mr. Vitale, you decided to cooperate with the
7 government for more than one reason. Right?

8 A. Yes.

9 Q. And it wasn't only because you were facing a
10 significant amount of time on a murder charge, but it was
11 also because you were very upset with what you perceived
12 Mr. Massino had done to you. Right?

13 MR. BURETTA: That has been asked and answered.

14 THE COURT: The last question.

15 A. That's true.

16 BY MS. KEDIA:

17 Q. And you are right now waiting -- awaiting sentencing?

18 A. That's true.

19 Q. And who is it that decides when it is that you get
20 sentenced?

21 A. I imagine the US Attorney's office.

22 Q. And until you do, you will be working with them?

23 A. Yes.

24 Q. Giving them information about anything that they
25 want?

Vitale - Cross/Ms. Kedia

3081

1 A. Not --

2 MR. BURETTA: Objection.

3 THE COURT: Sustained.

4 BY MS. KEDIA:

5 Q. You will be giving the information -- any information
6 that you're asked about specifically. Right? Is that
7 right?

8 MR. BURETTA: Objection.

9 THE COURT: Sustained.

10 BY MS. KEDIA:

11 Q. Well, Mr. Vitale, you testified that --

12 THE COURT: You keep turning around. Face the
13 witness.

14 MS. KEDIA: Yes, Judge.

15 BY MS. KEDIA:

16 Q. Mr. Vitale, you testified that you were specifically
17 approached by the government on the subject of Tommy
18 Gioeli recently. Right?

19 A. True.

20 Q. And that is the reason you started providing any
21 information is because you knew that the government wanted
22 to hear about this certain individual. Is that right?

23 A. They asked me about Tommy Shots. I told them about
24 Tommy Shots.

25 Q. Meaning they directed you specifically to the

Vitale - Cross/Ms. Kedia

3082

1 individual they wanted to know about. Is that right?

2 A. True.

3 Q. And when you met with Mr. Buretta and agents in
4 September 25th, 2007, they directed you specifically to
5 information they wanted to know about -- about
6 Mr. Persico. Is that right?

7 A. That is not true.

8 MR. BURETTA: Objection.

9 THE COURT: Sustained. The jury is instructed
10 to disregard it.

11 Mr. LaRusso will be starting cross-examination.

12 MS. KEDIA: I have one final question, your
13 Honor.

14 THE COURT: One final question.

15 BY MS. KEDIA:

16 Q. Were you asked specifically when you met with agents
17 and prosecutors on September 25, 2007, about Mr. Persico?

18 A. I told them first and then we went into it. They
19 never add or subtract from what you tell them.

20 Q. Yes or no? Yes or no?

21 MR. BURETTA: Objection.

22 THE COURT: Objection sustained.

23 Thank you.

24 Mr. LaRusso, you may inquire.

25

Vitale - Cross/Mr. LaRusso

3083

1 CROSS-EXAMINATION

2 BY MR. LaRUSSO:

3 Q. Good afternoon, Mr. Vitale.

4 A. Good afternoon.

5 Q. You testified about a beef over money that was owed
6 to a person you identified as John. Is that correct?

7 A. That's true.

8 Q. And that particular beef necessitated contacting
9 Mr. DeRoss. Is that right?

10 A. True.

11 Q. And I believe you also said you never met Mr. DeRoss
12 in your entire life?

13 A. I never did.

14 Q. But there was some interaction with Mr. DeRoss with
15 regard to that beef. Is that correct?

16 A. Yes.

17 Q. Other than that one dispute, other than that one
18 beef, was there any other interaction between you and
19 Mr. DeRoss?

20 A. Never.

21 Q. You also discussed a meeting in the fall of 1999.
22 Several times today, where you were present with
23 Mr. Persico, Mr. Massino and Mr. Waverly. Is that
24 correct?

25 A. True.

Vitale - Cross/Mr. LaRusso

3084

1 Q. Do you recall how you got to that meeting? I
2 withdraw that.

3 That is the meeting where Mr. Waverly was
4 introduced as the consiglieri and acting underboss of the
5 Colombo family. Is that correct?

6 A. It was said. Yes.

7 Q. Well, was it a formal introduction? Do you
8 understand my word, *formal*?

9 A. Well, I don't think he meant to say. I don't think
10 Allie Boy meant to say that he is the official, that he is
11 acting. I think he meant to say, well he is filling in
12 now. Well, he just threw it in.

13 Q. Mr. Vitale, your recollection is that Mr. Persico
14 introduced Joel Waverly as the consiglieri of the Colombo
15 family and the acting underboss. Is that correct?

16 I'm not asking you what somebody else thought.
17 I'm asking you, based upon your recollection of the
18 meeting; when Mr. Persico introduced Mr. Waverly as the
19 consiglieri and acting underboss --

20 A. No. He introduced him as the consiglieri -- hold on.
21 Hold it. Let's take a step back.

22 I introduced -- I knew Joe Waverly to be the
23 consiglieri. I introduced Joe Waverly to Mr. Messina at
24 the end of that whole conversation, that whole
25 introduction, Persico also turned around and said, *And*

Vitale - Cross/Mr. LaRusso

3085

1 *he's acting underboss too. It was more of a, like for the*
2 *time being.*

3 Q. He didn't use that word, did he, *time being*?

4 A. I think he said: *For the time being he is acting*
5 *underboss.*

6 Q. This is a meeting you recently had, is that correct,
7 with the law enforcement, where you told them that about
8 this meeting?

9 A. Yes.

10 Q. And how long ago, using today was that, from when
11 that meeting took place, that you first disclosed that Joe
12 Waverly was the acting underboss?

13 A. He was not the acting underboss. I think he meant to
14 say he is official consiglieri, but he is acting underboss
15 now for the time being. It wasn't that he is official
16 underboss.

17 MR. LaRUSSO: Your Honor, may I have just one
18 moment?

19 THE COURT: Yes.

20 BY MR. LaRUSSO:

21 Q. Do you remember in September, October of this year,
22 telling the law enforcement officers that at that meeting
23 Mr. Persico introduced Joe Waverly as the consiglieri, and
24 acting underboss of the Colombo family?

25 Do you remember saying that? I'm not asking you

Vitale - Cross/Mr. LaRusso

3086

1 what Mr. Persico might have thought. I'm asking you what
2 you remember at that meeting.

3 Did you say that or didn't you say that?

4 A. I might have said it that way. Yes.

5 Q. I don't have to show you this to refresh your
6 recollection?

7 A. No.

8 MR. BURETTA: Objection.

9 THE COURT: Sustained.

10 BY MR. LaRUSSO:

11 Q. So when you met with the agents, just so it is clear;
12 Mr. Persico introduced Joe Waverly to you and Mr. Messina
13 as the consiglieri and acting underboss of the family. Is
14 that correct?

15 MR. BURETTA: Objection.

16 THE COURT: Overruled.

17 A. Are you saying he formally introduced him?

18 BY MR. LaRUSSO:

19 Q. Forget *formally*. Did he introduce him as the
20 consiglieri and underboss?

21 A. He used those words.

22 Q. Was anybody else present at that meeting in the fall
23 of 1999?

24 A. Tommy Shots.

25 Q. At that particular meeting that we're talking about?

Vitale - Cross/Mr. LaRusso

3087

1 A. There were five individuals there. I don't know if
2 Tommy Shots was there when that particular conversation
3 was taking place. Tommy Shots went to park the car.

4 Q. Mr. DeRoss wasn't present though?

5 A. No.

6 Q. You also talked about a commission meeting in 2000.

7 Do you remember, that was your testimony today?

8 A. Yes.

9 Q. There were representatives of the five Mafia families
10 in the City of New York?

11 A. That's true.

12 Q. Each one of those families had a representative. Is
13 that correct?

14 A. Yes.

15 Q. Do you recall driving Mr. Waverly to that meeting?
16 Do you have a recollection of that?

17 A. I think Tommy Shots drove him to, there is a Burger
18 King or McDonald's on the corner. And I picked him up at
19 that location.

20 Q. And drove to the bar?

21 A. To the location.

22 Q. Mr. Waverly was the only representative of the
23 Colombo family at that meeting. Is that correct?

24 A. That's true.

25 Q. Mr. DeRoss was not present?

Vitale - Cross/Mr. LaRusso

3088

1 A. Not at all.

2 Q. By the way, the address book; I'm not sure of the
3 exhibit number. I believe -- I'm sorry, it's right here,
4 Government Exhibit 171 -- I'm sorry, Government 125, the
5 address book you were talking about.

6 Mr. DeRoss' name and number do not appear in
7 your address book?

8 A. No.

9 Q. You talked about two occasions when you were
10 arrested. And you then, I believe you testified that you
11 were released on some bail conditions?

12 A. I was arrested three times.

13 Q. So you were arrested on three occasions?

14 A. Right.

15 Q. You talked about one in 2001. There was one prior to
16 that?

17 A. 1984, '85.

18 Q. And were you released on bail from that one in 1984
19 and '85?

20 A. Yes.

21 Q. What were you charge with then?

22 A. Racketeering, shylocking, hijack, gambling.

23 Q. Federal offenses?

24 A. Federal.

25 Q. And were you released on bail?

Vitale - Cross/Mr. LaRusso

3089

1 A. Yes.

2 Q. Under what conditions, if you remember?

3 A. I don't recall. I know we put up our house for a
4 PRB, but I didn't have a bracelet.

5 Q. And you tell us what a PRB is.

6 A. Personal recognizance bond.

7 Q. Meaning you could sign your name to a piece of paper,
8 pledge a piece of property. And if you don't return you
9 could lose the property?

10 A. And I think it was my sister's house also.

11 Q. So several pieces of property may have been posted,
12 but no other conditions that you can recall. Is that
13 right?

14 A. No.

15 Q. Would it be fair to say that on that occasion, you
16 were able to continue your activities in the Bonanno
17 family?

18 A. Yes.

19 Q. You were able to continue to supervise members of the
20 Bonanno family who were under you?

21 A. At that time I only -- I don't know if I was a made
22 member then. I was just an associate, I think.

23 Q. The second arrest which takes us to 2001?

24 A. Right.

25 Q. That was for what?

Vitale - Cross/Mr. LaRusso

3090

1 A. That was for extortion, shylocking, and football
2 tickets.

3 Q. And again you were relieved on certain bail
4 conditions?

5 A. Yes.

6 Q. Tell us what they were?

7 A. I think it was, I think it was \$250,000 plus our
8 home, plus the bracelet on my leg.

9 Q. And a curfew?

10 A. And a curfew.

11 Q. And the curfew allowed to you go out of the house to
12 work. Is that correct?

13 A. True.

14 Q. And during the time that you were out on those bail
15 conditions, you were continuing to participate in the
16 activities of the Bonanno crime family?

17 A. That's true.

18 Q. And at this point you were able to continue your
19 supervision of the people that had been under you prior to
20 your arrest. Is that correct?

21 A. I wasn't really supervising anyone, but I did meet
22 with certain captains, yes, coffee, or for -- I'd meet
23 with individuals. I met with Mr. Massino. Yes. That's
24 true.

25 Q. So the arrest bail conditions that were imposed

Vitale - Cross/Mr. LaRusso

3091

1 didn't stop you in any way from doing what you had done
2 before. Is that right?

3 A. No.

4 Q. Do you know what the house arrest is, as opposed to
5 being released on curfew?

6 A. House arrest is 24/7.

7 Q. Explain that. I know what it means, but just for the
8 record.

9 A. House arrest means you can't leave the house at all.

10 Q. Now if a captain, let's say is placed under house
11 arrest, and his crew is taken from him and reassigned; do
12 you recall any time that occurred to you, in your
13 activities as a member of the Bonanno family?

14 A. That a captain was under house arrest and his men
15 were taken away?

16 Q. Reassigned to other captains?

17 A. I don't recall that.

18 Q. Well, if that happens in the Mafia where a captain is
19 placed on house arrest, and his crew is reassigned, what
20 would that indicate to you?

21 MR. BURETTA: Objection.

22 THE COURT: Sustained.

23 BY MR. LaRUSSO:

24 Q. You mentioned Anthony Spero a couple of times. And I
25 believe you said he was arrested on murder charges at one

Vitale - Redirect/Mr. Buretta

3092

1 point?

2 A. Yes.

3 Q. I believe you said around 1999, somewhere in that
4 neighborhood?

5 A. I don't recall, but it was late nineties.

6 Q. Were you able to talk to Mr. Spero when he was out on
7 bail?

8 A. No. He was under house arrest.

9 Q. As a matter of fact, the house was as much like a
10 fort as you can get?

11 A. They had marshals parked in front of his house 24/7.

12 Q. So they were very restrictive conditions in regard to
13 him at this point?

14 A. True.

15 MR. LaRUSSO: Your Honor, I have no further
16 questions.

17 THE COURT: Any redirect?

18 MR. BURETTA: Briefly, Judge.

19

20 DIRECT EXAMINATION

21 BY MR. BURETTA:

22 Q. Mr. Vitale, did you testify and tell the FBI that
23 Wild Bill had fled?

24 A. No.

25 MR. BURETTA: No further questions.

Vitale - Recross/Ms. Kedia

3093

1 THE COURT: Anything further, Ms. Kedia?

2

3 RECROSS-EXAMINATION

4 BY MS. KEDIA:

5 Q. Mr. Vitale, do you recall having specifically used
6 the words, *Wild Bill ran away*, when you first met with the
7 agents back in 2004, about the Colombo family?

8 A. After we had that discussion, and I looked at the
9 documents several times; on the left-hand side of the
10 document it is TG's initials.

11 I think I was relating that TG used that
12 expression, *he ran away*.

13 Q. He told you Wild Bill ran away?

14 A. He told me that at my son's wedding, that Wild Bill
15 ran away.

16 But in the context that he is dead, he ran away.

17 Q. This is when you say when you looked at that
18 document -- you're talking about the document that I
19 showed you earlier.

20 I need a moment to find it.

21 A. A handwritten document.

22 Q. That is marked as SV-210, talking about the document
23 here. Right?

24 A. Yes.

25 Q. And having looked at it again, Mr. Vitale, does it

Vitale - Recross/Ms. Kedia

3094

1 refresh your recollection that what you were talking about
2 to the agents is a meeting in a house with Allie Persico
3 and Tommy Shots, when it was told to you that Wild Bill
4 ran away?

5 A. Yes.

6 Q. Thank you.

7 MS. KEDIA: I have nothing further.

8 THE COURT: Anything Mr. LaRusso?

9 MR. LaRUSSO: No, your Honor.

10 THE COURT: Thank you.

11 We're going to conclude for the day.

12 Do not discuss this case with anyone. If anyone
13 tries to talk to you about the case, you are to
14 immediately report it to me. Don't discuss it with any of
15 the other jurors. And you'll give Mr. Baran a note.

16 Don't read any accounts in the media concerning
17 the fact of the case.

18 And you're not to do any independent research or
19 investigation concerning the facts of the case.

20 Continue to keep an open mind.

21 We'll resume at 9:30 on Monday.

22 As you know you will not required to come in on
23 Tuesday. And hopefully sometime on Monday I'll give you
24 an estimate as to when the expected end of the
25 government's case will be. All right.

Vitale - Recross/Ms. Kedia

3095

1 Have a nice weekend.

2 (The jury left the courtroom at 4:57 p.m.)

3 THE COURT: All right, Ms. Kedia.

4 I had kept notes on your cross-examination. The
5 government's cross-examination was two minutes. Yours was
6 three and-a-half hours. And that is excluding time for
7 the 15 minute break that we took, and the luncheon recess.

8 What is it that you would like to place on the
9 record as to having been precluded after you were told
10 several times that you would get two hours on
11 cross-examination?

12 MS. KEDIA: Your Honor, I have a number of
13 issues of credibility which I believe I could have, if
14 given the opportunity, could have specifically showed
15 numerous instances where this witness has testified and
16 lied under oath. And issues of credibility, as the Court
17 well knows, are of the utmost importance when you have a
18 cooperating witness testifying about a direct meeting with
19 the defendant in which he purports that the defendant
20 confessed the murders to him.

21 I can detail them for the Court in a letter, if
22 the Court would like. They are voluminous instances of
23 credibility that I don't believe that I was given, fairly
24 given an opportunity to examine this witness about.

25 THE COURT: Early on Ms. Kedia I told you to

Vitale - Recross/Ms. Kedia

3096

1 prioritize what you thought was important. And I repeated
2 that on several sidebars.

3 I think that the opportunity you had to cross
4 examine this witness was both extensive -- part of the
5 problem was that you continued to keep turning your back
6 to the witness as you walked back to the podium, causing
7 every other question to be repeated.

8 It is not that your voice is a soft, you're
9 certainly more than audible. But this gentleman, this
10 witness, gentleman or otherwise, was hard of hearing. And
11 I think that became apparent. And you just had to repeat
12 the questions over and over again.

13 In any event, three and-a-half hours, even with
14 someone who appears to have some hearing limitations, I
15 think is more than enough.

16 MR. BURETTA: I just note for the record that
17 the instances that Ms. Kedia did chose to seek to impeach
18 the witness on, in the majority of the cases, were not
19 even impeachment.

20 THE COURT: You can send the Court a letter.
21 I'll put it in the record.

22 And have a good weekend.

23 Now let me ask the government. There are
24 witnesses for Monday?

25 MR. BURETTA: Yes, Judge. As I informed

Vitale - Recross/Ms. Kedia

3097

1 Mr. LaRusso at the break, we're going to sit down tonight.
2 And tomorrow morning, by about eleven tomorrow morning, we
3 will send a list of all of the witnesses for the next
4 couple of days.

5 THE COURT: How many more witnesses do you have?

6 MR. BURETTA: We have cut Silvio -- who is a
7 cooperator. And I just don't have an answer yet. But I
8 will tomorrow about the balance.

9 THE COURT: And you understand that in the prior
10 trial you had less witnesses. You have more now?

11 MR. BURETTA: Judge, we're going to have less
12 cooperators than we had in the last trial. There may be
13 others, short ones.

14 THE COURT: I'm looking at the whole picture.

15 MR. BURETTA: I agree. I understand, Judge. I
16 stand by the estimate that we're going to rest some time
17 in the week of the 10th. It might be early in the week.
18 I'm not sure. But we're not that far away.

19 So we need sometime to sit down tonight or
20 tomorrow morning, and figure out if there are any other
21 cuts to be made. We'll let defense counsel know.

22 THE COURT: How long do the defendants estimate
23 their case will take?

24 MS. KEDIA: May I first inquire whether
25 Mr. Cutolo, Jr was in fact served with a subpoena?

Vitale - Recross/Ms. Kedia

3098

1 MR. BURETTA: I understand that he was.

2 And I'm glad you raised that. The marshals need
3 a revised subpoena. Because I think the date on there was
4 the 5th. And they abide by the subpoenas. My
5 understanding is they are going to produce him that day.
6 But they need to be informed by formal subpoena that it is
7 going to be, obviously a little bit later than that.

8 MS. KEDIA: I don't know how.

9 THE COURT: Give it to me. I'll sign it.

10 MS. KEDIA: I can send another date, but
11 obviously at this point in time I don't know what the date
12 is going to be. So we just put December 5th on the
13 subpoena, not knowing what the date would be, that in fact
14 he would be required to be here.

15 MR. BURETTA: I'm not blaming counsel. I'm just
16 updating them.

17 I think if we put the 10th on there and if it is
18 not done by then we can update it. The purpose is to make
19 sure he is not unnecessarily brought. That is it point.

20 THE COURT: You should put December 10th and
21 that will encourage the government.

22 (Whereupon the trial was adjourned at 5:02 p.m.)
23
24
25

3099

I N D E X

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I N D E X (CONT'D)

EXHIBITS

Government Exhibits 9A, 9B and 9C received in evidence	2860
Government Exhibits 2A and 2C received in evidence	2882
Government Exhibit 2I received in evidence	2886
Government Exhibit 125 received in evidence	2887
Government Exhibit 2H received in evidence	2898
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